



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

August 8, 2022

Kelly Garcia, Interim Director
Iowa Department of Public Health
Lucas State Office Building, 5th Floor
321 East 12th Street
Des Moines, IA 50319

Dear Ms. Garcia:

The U.S. Nuclear Regulatory Commission (NRC) uses the Integrated Materials Performance Evaluation Program (IMPEP) in the review of Agreement State and NRC radiation control programs. Enclosed is the draft IMPEP report, which documents the results of the Iowa Agreement State review conducted on June 27-30, 2022. The team's preliminary findings were discussed with you and your staff on the last day of the review. The team's proposed recommendations are that the Iowa Agreement State Program be found adequate to protect public health and safety and compatible with the NRC's program.

The NRC conducts periodic reviews of radiation control programs to ensure that public health and safety are adequately protected from the potential hazards associated with the use of radioactive materials and that Agreement State programs are compatible with the NRC's program. The IMPEP process uses a team composed of Agreement State and NRC staff to perform the reviews. All reviews use common criteria in the assessment and place primary emphasis on performance. The final determination of adequacy and compatibility of each program, based on the team's report, is made by the Chair of the Management Review Board (MRB) after receiving input from the MRB members. The MRB is composed of NRC senior managers and an Agreement State program manager.

In accordance with procedures for implementation of IMPEP, we are providing you with a copy of the draft report for your review and comment prior to submitting the report to the MRB. Comments are requested within 4 weeks from your receipt of this letter. This schedule will permit the issuance of the final report in a timely manner.

The team will review the response, make any necessary changes to the report, and issue it to the MRB as a proposed final report. The MRB meeting is scheduled to be conducted as a hybrid meeting on October 6, 2022, at 1:00 pm ET (12:00 noon CT), via Microsoft Teams and in person at NRC Headquarters, conference room OWFN17-B04. The NRC will provide invitational travel for you or your designee to attend the MRB meeting at the NRC Headquarters in Rockville, Maryland. The NRC will also provide you with Microsoft Teams connection information prior to the meeting.

K. Garcia

-2-

If you have any questions regarding the enclosed report, please contact Geoffrey Warren, Team Leader, at (630) 829-9742 or geoffrey.warren@nrc.gov.

Thank you for your cooperation.

Sincerely,



Signed by Anderson, Brian
on 08/08/22

Brian C. Anderson, Chief
State Agreement and Liaison Programs Branch
Division of Materials Safety, Security, State,
and Tribal Programs
Office of Nuclear Material Safety and Safeguards

Enclosure:
2022 Iowa Draft IMPEP Report

cc: Ken Sharp, Director (w/enclosure)
Division of Acute Disease Prevention,
Emergency Response, and
Environmental Health
Iowa Department of Public Health

Angela Leek, Chief (w/enclosure)
Bureau of Radiological Health
Iowa Department of Public Health

SUBJECT: IOWA FY2022 DRAFT IMPEP REPORT DATE August 8, 2022

Distribution:

KWilliams, NMSS
TClark, NMSS
GWarren, RIII
KBrock, NSIR
JNick, RIII
DPiccirillo, RIII
JO'Hara, NMSS
MFord, RI

BShelton, TN
DCurtis, RIII
JHeck, RIII
DWhite, NMSS
SSeeger, OAS Chair Elect
Astrainingandtravel.Resource@nrc.gov

ADAMS Accession No. ML22203A089

OFFICE	RIII/DNMS	NMSS/MSST	NMSS/MSST
NAME	GWarren	RJohnson	BAnderson
DATE	07/20/2022	07/20/2022	08/08/2022

OFFICIAL RECORD COPY



INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

REVIEW OF THE IOWA AGREEMENT STATE PROGRAM

June 27-30, 2022

DRAFT REPORT

EXECUTIVE SUMMARY

The results of the Integrated Materials Performance Evaluation Program (IMPEP) review of the Iowa Agreement State Program (Iowa) are discussed in this report. The review was conducted from June 27 through 30, 2022. In-person inspector accompaniments were conducted during the week of May 30, 2022.

The team found Iowa's performance to be satisfactory for all six performance indicators reviewed: Technical Staffing and Training; Status of Materials Inspection Program; Technical Quality of Inspections; Technical Quality of Licensing Actions; Technical Quality of Incident and Allegation Activities; and Legislation, Regulations, and Other Program Elements.

The team made one recommendation under the Legislation, Regulations, and Other Program Elements performance indicator concerning licensing guidance documents that have not been updated in a timely manner. There were no recommendations from the previous review for the team to consider.

Accordingly, the team recommends that the Iowa Agreement State Program be found adequate to protect public health and safety and compatible with the NRC's program. Because the last two reviews have resulted in all performance indicators being found satisfactory, the team recommends that a periodic meeting take place in approximately 2.5 years with the next IMPEP review taking place in approximately 5 years.

1.0 INTRODUCTION

The Iowa Agreement State Program (Iowa) review was conducted from June 27 through 30, 2022, by a team of technical staff members from the U.S. Nuclear Regulatory Commission (NRC) and the State of Tennessee. Team members are identified in Appendix A. In-person inspector accompaniments were conducted during the week of May 30, 2022. The inspector accompaniments are identified in Appendix B.

The review was conducted in accordance with the "Agreement State Program Policy Statement," published in the *Federal Register* on October 18, 2017 (82 FR 48535), and NRC Management Directive (MD) 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)," dated July 24, 2019. In addition, the team considered IMPEP Temporary Instruction (TI) 003, "Evaluating the Impacts of the Coronavirus Disease 2019 Public Health Emergency (PHE) as Part of IMPEP," dated October 21, 2020, to evaluate the impact of the PHE on the Program. Preliminary results of the review, which covered the period of August 11, 2017, through June 30, 2022, were discussed with Iowa managers on the last day of the review.

In preparation for the review, a questionnaire addressing the common performance indicators and applicable non-common performance indicators was sent to Iowa on January 20, 2022. Iowa provided its response to the questionnaire on June 6, 2022. A copy of the questionnaire response is available in the NRC's Agencywide Documents Access and Management System (ADAMS) using the Accession Number [ML22165A080](#).

The Iowa Radiation Control Program is administered by the Iowa Department of Public Health and Safety, Division of Acute Disease Prevention, Emergency Response, and Environmental Health, and is formally called the Bureau of Radiological Health (the Bureau). Organization charts for Iowa are available in [ML22165A074](#). At the time of the review, the program was administered by the Iowa Department of Public Health; this changed following the review due to a merger of state departments.

At the time of the review, Iowa regulated 130 specific licenses authorizing possession and use of radioactive materials. The review focused on the radiation control program as it is carried out under Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of Iowa.

The team evaluated the information gathered against the established criteria for each common and applicable non-common performance indicator and made a preliminary assessment of Iowa's performance.

2.0 PREVIOUS IMPEP REVIEW AND STATUS OF RECOMMENDATIONS

The previous IMPEP review concluded on August 10, 2017. The final report is available in ADAMS ([ML17300A440](#)). The results of the review are as follows:

Technical Staffing and Training: Satisfactory
Recommendation: None

Status of Materials Inspection Program: Satisfactory
Recommendation: None

Technical Quality of Inspections: Satisfactory

Recommendation: None

Technical Quality of Licensing Actions: Satisfactory
Recommendation: None

Technical Quality of Incident and Allegation Activities: Satisfactory
Recommendation: None

Legislation, Regulations, and Other Program Elements: Satisfactory
Recommendation: None

Overall finding: Adequate to protect public health and safety and compatible with the NRC's program.

3.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC and Agreement State radiation control programs. These indicators are: (1) Technical Staffing and Training, (2) Status of Materials Inspection Program, (3) Technical Quality of Inspections, (4) Technical Quality of Licensing Actions, and (5) Technical Quality of Incident and Allegation Activities.

3.1 Technical Staffing and Training

The ability to conduct effective licensing and inspection programs is largely dependent on having a sufficient number of experienced, knowledgeable, well-trained technical personnel. Under certain conditions, staff turnover could have an adverse effect on the implementation of these programs and could affect public health and safety. Apparent trends in staffing must be assessed. Review of staffing also requires consideration and evaluation of the levels of training and qualification. The evaluation standard measures the overall quality of training available to, and taken by, materials program personnel.

a. Scope

The team used the guidance in State Agreements procedure [SA-103](#), "Reviewing the Common Performance Indicator: Technical Staffing and Training," and evaluated Iowa's performance with respect to the following performance indicator objectives:

- A well-conceived and balanced staffing strategy has been implemented throughout the review period.
- Any vacancies, especially senior-level positions, are filled in a timely manner.
- There is a balance in staffing of the licensing and inspection programs.
- Management is committed to training and staff qualification.
- Agreement State training and qualification program is equivalent to NRC Inspection Manual Chapter (IMC) 1248, "Formal Qualifications Program for Federal and State Material and Environmental Management Programs."
- Qualification criteria for new technical staff are established and are followed, or qualification criteria will be established if new staff members are hired.
- Individuals performing materials licensing and inspection activities are adequately qualified and trained to perform their duties.
- License reviewers and inspectors are trained and qualified in a reasonable period of time.

b. Discussion

Iowa is composed of five staff members, including one overage, which equals 3.5 full-time equivalent (FTE) for the radiation control program when fully staffed. Currently, there are no vacancies. During the review period, none of the staff members left the program and two staff members were hired. One of the staff members hired filled a position that was vacant at the time of the 2017 IMPEP review and the second staff member was hired, during this review period, in anticipation of a retirement immediately following the 2022 IMPEP review. The positions were vacant for approximately six months.

In June 2020, one staff member commenced a one-year military deployment. Despite having only three staff for that time period, the Bureau did not require outside assistance to complete inspections within the timeframes outlined in IMC 2800, "Materials Inspection Program." Shortly after the review period, one staff member retired and the open position was filled with a current staff member. The vacated position was eliminated.

Iowa has a training and qualification program compatible with the NRC's IMC 1248. The team noted that, although the PHE has reduced the number of in-person training opportunities, there have been no adverse impacts to the qualification process. Iowa staff continue to enroll in NRC virtual and in-person classes when available.

c. Evaluation

The team determined that, during the review period, Iowa met the performance indicator objectives listed in Section 3.1.a. Based on the criteria in MD 5.6, the team recommends that Iowa's performance with respect to the indicator, Technical Staffing and Training, be found satisfactory.

d. MRB Chair's Determination

The final report will present the MRB Chair's determination regarding this indicator.

3.2 Status of Materials Inspection Program

Inspections of licensed operations are essential to ensure that activities are being conducted in compliance with regulatory requirements and consistent with good safety and security practices. The frequency of inspections is specified in IMC 2800 and is dependent on the amount and type of radioactive material, the type of operation licensed, and the results of previous inspections. There must be a capability for maintaining and retrieving statistical data on the status of the inspection program.

a. Scope

The team used the guidance in [SA-101](#), "Reviewing the Common Performance Indicator: Status of the Materials Inspection Program," and evaluated Iowa's performance with respect to the following performance indicator objectives:

- Initial inspections and inspections of Priority 1, 2, and 3 licensees are performed at the prescribed frequencies (<https://www.nrc.gov/materials/miau/mat-toolkits.html>).
- Deviations from inspection schedules are normally coordinated between technical staff and management.

- There is a plan to perform any overdue inspections and reschedule any missed or deferred inspections or a basis has been established for not performing any overdue inspections or rescheduling any missed or deferred inspections.
- Candidate licensees working under reciprocity are inspected in accordance with the criteria prescribed in IMC 2800 and other applicable guidance or compatible Agreement State Procedure.
- Inspection findings are communicated to licensees in a timely manner (30 calendar days, or 45 days for a team inspection), as specified in IMC 0610, "Nuclear Material Safety and Safeguards Inspection Reports."

b. Discussion

Iowa performed 113 Priority 1, 2, 3, and initial inspections during the review period. No Priority 1, 2, 3, or initial inspections were conducted overdue during the review period and no such inspections were overdue at the time of the review, resulting in an overall overdue inspection rate of 0 percent for the review period. Iowa's inspection frequencies are the same or in some cases more frequent than similar license types in NRC's program. In particular, certain medical licensees, such as broad-scope and ~~emerging technologies licensees~~,  inspected annually.

A sampling of 66 inspection reports indicated that none of the inspection findings were communicated to the licensees beyond Iowa's goal of 30 days after the inspection exit or 45 days after the team inspection exit.

During this review period, Iowa had 54 candidates for reciprocity inspections and performed 6. The program has adopted the new IMC 2800 guidance for their reciprocity program and are performing these inspections in a performance-based, risk-informed manner. Iowa prioritized new licensees that have never worked in the state, licensees that perform more risk-associated activities, and licensees that have not been inspected in several years.

c. Evaluation

The team determined that, during the review period, Iowa met the performance indicator objectives listed in Section 3.2.a. Based on the criteria in MD 5.6, the team recommends that Iowa's performance with respect to the indicator, Status of Materials Inspection Program, be found satisfactory.

d. MRB Chair's Determination

The final report will present the MRB Chair's determination regarding this indicator.

3.3 Technical Quality of Inspections

Inspections, both routine and reactive, provide reasonable assurance that licensee activities are carried out in a safe and secure manner. Accompaniments of inspectors performing inspections and the critical evaluation of inspection records are used to assess the technical quality of an inspection program.

a. Scope

The team used the guidance in [SA-102](#), “Reviewing the Common Performance Indicator: Technical Quality of Inspections,” and evaluated Iowa’s performance with respect to the following performance indicator objectives:

- Inspections of licensed activities focus on health, safety, and security.
- Inspection findings are well-founded and properly documented in reports.
- Management promptly reviews inspection results.
- Procedures are in place and used to help identify root causes and poor licensee performance.
- Inspections address previously identified open items and violations.
- Inspection findings lead to appropriate and prompt regulatory action.
- Supervisors, or senior staff as appropriate, conduct annual accompaniments of each inspector to assess performance and assure consistent application of inspection policies.
- For Programs with separate licensing and inspection staffs, procedures are established and followed to provide feedback information to license reviewers.
- Inspection guides are compatible with NRC guidance.
- An adequate supply of calibrated survey instruments is available to support the inspection program.

b. Discussion

The team evaluated 25 inspection reports and enforcement documentation, and interviewed inspectors involved in materials inspections conducted during the review period. The team reviewed casework for inspections conducted by all three of Iowa’s qualified inspectors who performed inspections during the review period, and covered safety and security inspections of medical, industrial, commercial, academic, research, service, and reciprocity licenses. All inspections were well documented and inspection findings were consistent with inspection procedures and regulatory requirements.

A team member accompanied two inspectors on June 1 and 2, 2022. The inspector accompaniments were conducted in-person; the accompaniments showed that the inspectors focused on safety and security and had a good understanding of performance-based inspections. The inspector accompaniments are identified in Appendix B.

Except during 2020, supervisory accompaniments were performed annually for all inspectors. Iowa decided to forgo the accompaniments in the early stages of the COVID-19 PHE, but later resumed this activity. The team did not identify any performance issues as a result of this pause in supervisory accompaniments.

The team noted that Iowa maintained sufficient instrumentation for inspectors to conduct independent and/or confirmatory measurements that were calibrated at appropriate intervals and were appropriate for the types of licensed activities inspected. In all inspection records reviewed, the team found that surveys had been performed with properly calibrated survey equipment.

c. Evaluation

The team determined that, during the review period, Iowa met the performance indicator objectives listed in Section 3.3.a. Based on the criteria in MD 5.6, the team recommends that Iowa's performance with respect to the indicator, Technical Quality of Inspections be found satisfactory.

d. MRB Chair's Determination

The final report will present the MRB Chair's determination regarding this indicator.

3.4 Technical Quality of Licensing Actions

The quality, thoroughness, and timeliness of licensing actions can have a direct bearing on public health and safety, as well as security. An assessment of licensing procedures, implementation of those procedures, and documentation of communications and associated actions between the Iowa licensing staff and regulated community is a significant indicator of the overall quality of the licensing program.

a. Scope

The team used the guidance in [SA-104](#), "Reviewing the Common Performance Indicator: Technical Quality of Licensing Actions," and evaluated Iowa's performance with respect to the following performance indicator objectives:

- Licensing action reviews are thorough, complete, consistent, and of acceptable technical quality with health, safety, and security issues properly addressed.
- Essential elements of license applications have been submitted and elements are consistent with current regulatory guidance (e.g., pre-licensing guidance, Title 10 of the *Code of Federal Regulation* (10 CFR) Part 37, financial assurance, etc.).
- License reviewers, if applicable, have the proper signature authority for the cases they review independently.
- License conditions are stated clearly and can be inspected.
- Deficiency letters clearly state regulatory positions and are used at the proper time.
- Reviews of renewal applications demonstrate a thorough analysis of a licensee's inspection and enforcement history.
- Applicable guidance documents are available to reviewers and are followed (e.g., NUREG-1556 series, pre-licensing guidance, regulatory guides, etc.).
- Licensing practices for risk-significant radioactive materials are appropriately implemented including the physical protection of Category 1 and Category 2 quantities of radioactive material (10 CFR Part 37 equivalent).
- Documents containing sensitive security information are properly marked, handled, controlled, and secured.

b. Discussion

During the review period, Iowa performed 406 radioactive materials licensing actions. The team evaluated 23 of those licensing actions: 3 new applications, 10 amendments, 6 renewals, and 4 terminations. The team evaluated casework which covered the following license types and actions: industrial radiography, veterinary, academic broad scope, diagnostic and therapeutic medical, portable and fixed gauges, special nuclear material, nuclear pharmacy, blood irradiator, research and development, change of control, and financial assurance. The casework sample represented licensing actions

completed by all current and former staff who were qualified to independently perform licensing actions during the review period.

The team reviewed Iowa's license templates, standard conditions, licensing guidance, and checklists. The team determined that the license templates, standard conditions, and checklists were comprehensive, ensured health safety and security issues were addressed, and ensured that licensing actions were well documented. However, the team found that most of Iowa's licensing guidance had not been updated within 6 months of the issuance of equivalent NRC licensing guidance. Despite Iowa not having updated its own internal guidance, the team determined that licensing actions were thorough, complete, consistent, and of sound technical quality. Deficiency letters were clear and used at appropriate times and reviews of renewals included an analysis of the licensee's inspection and enforcement history. The team determined that Iowa's ability to achieve consistent performance of high-quality and compatible licensing actions was due in large part to Iowa having regulations in place that incorporated all the most recent changes to equivalent NRC regulations. In general, licensing guidance contains information intended to provide program-specific guidance to license reviewers and assist applicants in preparing applications for materials licenses. When completing licensing actions, Iowa license reviewers used their knowledge of the regulations to complete licensing actions that result in a manner equivalent to the NRC. Since the team did not find any errors in the review of licensing actions as a result of the outdated guidance, the team determined that it was more appropriate to address this outdated guidance in Section 4.1 of this report.

The team evaluated the implementation of Iowa's Pre-Licensing Guidance and Risk Significant Radioactive Materials checklists. The team concluded that Iowa was using the most current version of both documents and was implementing them appropriately. Iowa's licenses containing security related information were properly marked and stored appropriately. The team noted that financial assurance instruments were properly submitted when required. Iowa requires license renewals to be submitted every 5 years which is more restrictive than the NRC's requirement of every 15 years.

Prior to the pandemic, Iowa had a peer review process in place which required two qualified license reviewer signatures to be on a license prior to issuance. In March 2020, Iowa halted its peer review process and switched to allowing a license to be issued with a single signature. This change resulted from the start of staff working remotely in March 2020 in response to the pandemic; since Iowa's licensing files were paper based, it was challenging for multiple staff to access the same licensing file. During the on-site review, the team noted that Iowa was in the process of transitioning to an electronic based licensing and inspection record keeping system and ~~additionally had started to implement the use of electronic signatures on licenses~~  In line with these efforts, Iowa planned to reinstate the peer review process that was in place prior to the pandemic. The team determined that the discontinuance of the peer review process did not adversely affect Iowa's licensing actions.

Other regulatory adjustments falling under this indicator that occurred as a result of the pandemic include: a six-month extension for radiographer certification cards issued by Iowa for cards expiring between March 1 and September 30, 2020, and licensees having extended Deemed Timely periods when terminating their license as a result of waste disposal services halting rounds to pick-up waste. The team determined that these were temporary programmatic adjustments made as a result of the pandemic and did not negatively affect performance related to this indicator.

c. Evaluation

The team determined that, during the review period, Iowa met the performance indicator objectives listed in Section 3.4.a. Based on the criteria in MD 5.6, the team recommends that Iowa's performance with respect to the indicator, Technical Quality of Licensing Actions, be found satisfactory.

d. MRB Chair's Determination

The final report will present the MRB Chair's determination regarding this indicator.

3.5 Technical Quality of Incident and Allegation Activities

The quality, thoroughness, and timeliness of response to incidents and allegations of safety concerns can have a direct bearing on public health, safety and security. An assessment of incident response and allegation investigation procedures, actual implementation of these procedures internal and external coordination, timely incident reporting, and investigative and follow-up actions, are a significant indicator of the overall quality of the incident response and allegation programs.

a. Scope

The team used the guidance in [SA-105](#), "Reviewing the Common Performance Indicator: Technical Quality of Incident and Allegation Activities," and evaluated Iowa's performance with respect to the following performance indicator objectives:

- Incident response and allegation procedures are in place and followed.
- Response actions are appropriate, well-coordinated, and timely.
- On-site responses are performed when incidents have potential health, safety, or security significance.
- Appropriate follow-up actions are taken to ensure prompt compliance by licensees.
- Follow-up inspections are scheduled and completed, as necessary.
- Notifications are made to the NRC Headquarters Operations Center for incidents requiring a 24-hour or immediate notification to the Agreement State or NRC.
- Incidents are reported to the Nuclear Material Events Database (NMED) and closed when all required information has been obtained.
- Allegations are investigated in a prompt, appropriate manner.
- Concerned individuals are notified within 30 days of investigation conclusions.
- Concerned individuals' identities are protected, as allowed by law.

b. Discussion

During the review period 11 reportable incidents were reported to Iowa. The team evaluated 10 radioactive materials incidents: 2 incidents involving lost or stolen radioactive materials and 8 incidents involving damaged equipment. Iowa dispatched inspectors for on-site follow-up for one of the cases reviewed.

When notified of an incident, staff determine the appropriate level of response which can range from an immediate response to reviewing the incident during the next routine scheduled inspection. Those determinations are made based on both the circumstances and the health and safety significance of the incident. The team found that Iowa's evaluation of incident notifications and its response to those incidents was thorough, well balanced, complete, and comprehensive.

The team also evaluated Iowa's reporting of incidents to the NRC's Headquarters Operations Officer (HOO). The team noted that in each case requiring HOO notification, Iowa reported the incidents within the required time frame. The team also evaluated whether Iowa had failed to report any required incidents to the HOO. The team did not identify any missed reporting requirements.

In addition, the team reviewed three potentially reportable incidents that the state initially reported to the HOO and later retracted. Iowa performed on-site reactive inspections in response to each of these cases and determined that they were not reportable. The team concurred with Iowa's determination and noted that if they had been reportable, they would have been timely.

During the review period, no allegations concerning radioactive materials were received by Iowa or referred to Iowa by the NRC, though Iowa did receive and respond to allegations concerning machine-produced radiation. The team evaluated Iowa's knowledge of how to respond to allegations concerning radioactive materials and determined that the staff would recognize an allegation and was prepared to respond appropriately.

c. Evaluation

The team determined that, during the review period, Iowa met the performance indicator objectives listed in Section 3.5.a. Based on the criteria in MD 5.6, the team recommends that Iowa's performance with respect to the indicator, Technical Quality of Incident and Allegation Activities, be found satisfactory.

d. MRB Chair's Determination

The final report will present the MRB Chair's determination regarding this indicator.

4.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Legislation, Regulations, and Other Program Elements; (2) Sealed Source and Device (SS&D) Evaluation Program; (3) Low-Level Radioactive Waste (LLRW) Disposal Program; and (4) Uranium Recovery Program. The NRC retains regulatory authority for the SS&D Evaluation, LLRW Disposal, and Uranium Recovery Programs; therefore, only one non-common performance indicator, Legislation, Regulations, and Other Program Elements, applied to this review.

4.1 Legislation, Regulations, and Other Program Elements

State statutes should authorize the State to establish a program for the regulation of agreement material and provide authority for the assumption of regulatory responsibility under the State's agreement with the NRC. The statutes must authorize the State to promulgate regulatory requirements necessary to provide reasonable assurance of adequate protection of public health, safety, and security. The State must be authorized through its legal authority to license, inspect, and enforce legally binding requirements, such as regulations and licenses. The NRC regulations that should be adopted by an Agreement State for purposes of compatibility or health and safety should be adopted in a time frame so that the effective date of the State requirement is not later than 3 years after the effective date of the NRC's final rule. Other program elements that have been

designated as necessary for maintenance of an adequate and compatible program should be adopted and implemented by an Agreement State within 6 months following NRC designation. A Program Element Table indicating the Compatibility Categories for those program elements other than regulations can be found on the NRC Web site at the following address: <https://scp.nrc.gov/regtoolbox.html>.

a. Scope

The team used the guidance in [SA-107](#), "Reviewing the Non-Common Performance Indicator: Legislation, Regulations, and Other Program Elements," and evaluated Iowa's performance with respect to the following performance indicator objectives. A complete list of regulation amendments can be found on the NRC website at the following address: <https://scp.nrc.gov/regtoolbox.html>.

- The Agreement State program does not create conflicts, duplications, gaps, or other conditions that jeopardize an orderly pattern in the regulation of radioactive materials under the Atomic Energy Act of 1954, as amended.
- Regulations adopted by the Agreement State for purposes of compatibility or health and safety were adopted no later than 3 years after the effective date of the NRC regulation.
- Other program elements, as defined in [SA-200](#), "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements," that have been designated as necessary for maintenance of an adequate and compatible program, have been adopted and implemented within 6 months of NRC designation.
- The State statutes authorize the State to establish a program for the regulation of agreement material and provide authority for the assumption of regulatory responsibility under the agreement.
- The State is authorized through its legal authority to license, inspect, and enforce legally binding requirements such as regulations and licenses.
- Sunset requirements, if any, do not negatively impact the effectiveness of the State's regulations.

b. Discussion

Iowa became an Agreement State on January 1, 1986. The Radiation Control Program (Program) is located within the Iowa Department of Public Health and ~~and Safety~~ Division of Acute Disease Prevention, Emergency Response, and Environmental Health, and is formally called the Bureau of Radiological Health. The Iowa Agreement State Program's authority comes from the Code of Iowa, chapters 17A, 136B, 136C, and 136D. The Iowa Regulations for Control of Radiation are found in Iowa Administrative Code, Section 641, Chapters 38-45, and apply to radioactive materials and devices designed to produce radiation. The Bureau requires a license for possession and use of all radioactive material, including naturally-occurring materials such as radium, and accelerator-produced radionuclides. The Iowa Agreement State Program regulates approximately 130 specific radioactive materials licensees authorizing the possession and use of radioactive materials.

The Iowa legislature authorized the merger of the Iowa Department of Health and the Iowa Department of Human Services. On July 1, 2022, the new organization was named the Iowa Department of Health and Human Services. The reorganization will change reporting responsibilities but will have no further impact of the organization or current staffing of the Bureau.

The Iowa Agreement State Program licensing actions are fee funded. On September 18, 2019, a 100% fee increase went into effect for all specific radioactive material licensees and general license registrants. This is the first fee increase in 15 years and the team believes the Bureau is in a better financial position as a result.

Iowa's administrative rulemaking process takes approximately five months from drafting to finalizing a rule. Each proposed rule is drafted in redline strikethrough, and staff completes a Notice of Intended Action (NOIA), which describes why the rule is changing. The draft rule and NOIA are submitted to Division Rules Coordinator who forwards the rule package the Governor's office for serialization. The draft rule is then submitted to the Board of Health (BOH), which is composed of delegates appointed by the Governor for review and is published in the Iowa Administrative Bulletin (IAB) for a 20-day public comment period. The draft rule is submitted to NRC as a 'proposed' rule. Once comments and changes are incorporated by the Division Rules Coordinator, the BOH will review and vote on the final rule. The rule is then submitted to the Administrative Rules Review Committee, which is composed of elected officials. Once approved, the rule is published in the IAB and is effective law within approximately 30 days. The final rule is then submitted to the NRC for review. The team noted that the Iowa's rules and regulations are not subject to 'sunset' laws.

Iowa submitted a total of 10 regulation review packages, and one package not associated with a Regulation Amendment Tracking Sheet for review during the review period. Ten of the rule packages were final rules and nine were proposed rules. None of the packages were late nor did the regulation review packages have any outstanding comments. Iowa adopted the laws within 3 years of the effective date.

The team also found that some of Iowa's licensing guidance were not updated within 6 months of the issuance of equivalent NRC licensing guidance. Program elements are necessary for maintenance of an adequate and compatible program. Procedure [SA-107](#), "Reviewing the Non-Common Performance Indicator: Legislation, Regulations, and Other Program Elements," requires other program elements that have been designated as necessary for the adequacy and compatibility program be adopted and implemented by the Program within 6 months of such designation and issuance by the NRC. The team reviewed 7 of Iowa's 15 specific license regulatory guides. Of the seven guides reviewed, six of them were outdated. The Medical Diagnostic and Therapeutic Procedures guide was current, while the Industrial Radiography, Portable Gauges, Non-portable gauges, Gamma Stereotactic Radiosurgery, Special Nuclear Material Licenses for less than critical mass, and Medical Use of Radioactive Material for Diagnostic Procedures guides were found to be out of date. However, the team determined that the outdated guidance did not adversely affect public health and safety. As a result, the team will make the following recommendation:

- Iowa should review all their license regulatory guides and update them as needed to be consistent with NRC licensing guidance.

Despite not having updated internal guidance, the team determined that Iowa's licensing actions were thorough, complete, consistent, and of sound technical quality and did not contribute to a performance issue.

c. Evaluation

The team determined that, during the review period, Iowa met the performance indicator objectives listed in Section 4.1.a. Based on the criteria in MD 5.6, the team recommends

that Iowa's performance with respect to the indicator, Legislation, Regulations, and Other Program Elements, be found satisfactory.

d. MRB Chair's Determination

The final report will present the MRB Chair's determination regarding this indicator.

5.0 SUMMARY

The team recommends that Iowa's performance be found satisfactory for all six performance indicators reviewed. The team made one recommendation and there were no recommendations from the previous review for the team to consider.

Accordingly, the team recommends that Iowa be found adequate to protect public health and safety, and compatible with the NRC's program. Based on the results of the current IMPEP review, the team recommends that the next full IMPEP review take place in approximately 5 years, with a periodic meeting in approximately 2.5 years.

LIST OF APPENDICES

Appendix A	IMPEP Review Team Members
Appendix B	Inspector Accompaniments

APPENDIX A

IMPEP REVIEW TEAM MEMBERS

Name	Areas of Responsibility
Geoffrey Warren, NRC Region III	Team Leader Technical Quality of Incident and Allegation Activities Inspector Accompaniments
Joe O'Hara, NRC NMSS	Technical Staffing and Training Legislation, Regulations, and Other Program Elements
Beth Shelton, State of Tennessee	Status of Materials Inspection Program Technical Quality of Inspections
Monica Ford, NRC Region I	Technical Quality of Licensing Actions

APPENDIX B

INSPECTOR ACCOMPANIMENTS

The following inspector accompaniments were performed prior to the on-site IMPEP review:

Accompaniment No.: 1	License No.: 0357-1-77-HDR
License Type: High Dose Rate Remote Afterloader	Priority: 2
Inspection Date: 6/1/2022	Inspector's initials: DE

Accompaniment No.: 2	License No.: 0385-1-77-IR1
License Type: Industrial Radiography	Priority: 1
Inspection Date: 6/2/2022	Inspector's initials: SJ