



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

February 1, 2023

MEMORANDUM TO:

Catherine Haney  
Deputy Executive Director for Materials, Waste,  
Research, State, Tribal, Compliance, Administration,  
and Human Capital Programs  
Office of the Executive Director for Operations

Jessica Bielecki, Assistant General Counsel for  
Reactor and Materials Rulemaking  
Office of the General Counsel

Robert Lewis, Deputy Director  
Office of Nuclear Material Safety  
and Safeguards

Mohammed Shuaibi, Deputy Regional Administrator  
NRC Region III

FROM:

Bethany Cecere, Acting Chief  
State Agreement and Liaison Programs Branch  
Division of Materials Safety, Security, State,  
and Tribal Programs  
Office of Nuclear Material Safety  
and Safeguards

A handwritten signature in black ink, appearing to read "Bethany Cecere".

Signed by Cecere, Bethany  
on 02/01/23

SUBJECT:

DRAFT RHODE ISLAND PERIODIC MEETING SUMMARY

This memorandum transmits to the Management Review Board (MRB) the draft summary documenting the results of the November 30, 2022, Rhode Island Periodic Meeting (Enclosure 1). Based on discussions during the periodic meeting, staff found that Rhode Island has completed most of the tasks outlined in the November 28, 2022, Program Improvement Plan in the NRC's Agencywide Documents Access and Management System (ADAMS) using the Accession Number: [ML23027A134](#) and is on track to address the recommendations identified during the 2021 IMPEP review. As a result, staff recommends that the next full IMPEP review be performed in October 2023, as recommended by the 2021 IMPEP review team.

A Special Management Review Board meeting to discuss the results of the periodic meeting held with the Rhode Island Agreement State Program has been scheduled for **Tuesday, February 7, 2023, from 1:00 p.m. to 2:00 p.m. ET, in One White Flint, Room 17-B04.**

CONTACT: Robert Johnson, NMSS/MSST  
[Robert.Johnson@nrc.gov](mailto:Robert.Johnson@nrc.gov)

MRB Members

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In accordance with Management Directive 5.6, the meeting is open to the public. The agenda for this meeting is provided as Enclosure 2

Enclosures:

1. Draft Rhode Island Agreement State Program Periodic Meeting Summary
2. Rhode Island Agreement State Program MRB Meeting Agenda

cc: Vanessa Danese, State of Texas  
Organization of Agreement States  
Representative to the MRB

SUBJECT: DRAFT RHODE ISLAND PERIODIC MEETING SUMMARY

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**ADAMS Accession No.: ML23028A043**

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| <b>NAME</b>   | KMeyer     | FGaskins   | RJohnson   | BCecere    |
| <b>DATE</b>   | 01/28/2023 | 01/30/2023 | 01/30/2023 | 01/XX/2023 |

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

PERIODIC MEETING WITH THE STATE OF RHODE ISLAND

TYPE OF OVERSIGHT: HEIGHTENED OVERSIGHT

NOVEMBER 30, 2022

**DRAFT**

## **PERIODIC MEETING PARTICIPANTS**

### **NRC**

- Kevin Williams, Director, Division of Materials Safety, Security, State and Tribal Programs, Office of Nuclear Material Safety and Safeguards
- Farrah Gaskins, Regional State Agreements Officer, DRSS, Region I
- Latischa Hanson, Acting Regional State Agreements Officer, DRSS, Region I

### **Rhode Island Department of Health**

- Jennifer Sternick, Associate Director
- Jennifer Olsen-Armstrong, Chief, Center for Health Facilities Regulation
- Alexander Hamm, Supervising Radiological Health Specialist, Center for Health Facilities Regulation
- Joseph Catalano, Chief of Management Services, Center for Health Facilities Regulation
- Dennis Klaczynski, Senior Radiological Health Specialist
- Thomas Caruolo, Radiological Health Specialist
- Maria Barnes, Radiological Health Specialist

## 1.0 INTRODUCTION

This report presents the results of the periodic meeting held between the U.S. Nuclear Regulatory Commission (NRC) and the State of Rhode Island. The meeting was conducted in accordance with the Office of Nuclear Material Safety and Safeguards (NMSS) State Agreements Procedure SA-116 "Periodic Meetings between IMPEP Reviews," dated June 3, 2009.

At the time of the periodic meeting, the Rhode Island Agreement State Program regulated approximately 40 specific licenses authorizing possession and use of radioactive materials. The meeting focused on the radioactive materials program as it is carried out under the Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of Rhode Island.

The Rhode Island Agreement State Program is administered by the Radiation Control Agency (the Agency) which is located within the Center for Health Facilities Regulation (the Center). The Center is part of the Rhode Island Department of Health (the Department). The Program is managed by the Supervising Radiological Health Specialist and Chief of Center for Health Facilities Regulation. Since the October 19-22, 2021, Integrated Materials Performance Evaluation Program (IMPEP) review, there have been no changes to the organizational structure.

A Management Review Board (MRB) meeting to discuss the outcome of the 2021 IMPEP review was held on January 20, 2022. The team found that Rhode Island's performance was satisfactory for the following four performance indicators:

- Status of Materials Inspection Program;
- Technical Quality of Inspections;
- Technical Quality of Incident and Allegation Activities; and
- Legislation, Regulations, and Other Program Elements.

The 2021 IMPEP team found Rhode Island's performance was satisfactory but needs improvement for the performance indicator Technical Staffing and Training, which remains unchanged from the previous IMPEP review, and unsatisfactory for the performance indicator Technical Quality of Licensing Actions.

The 2021 IMPEP team recommended and the MRB Chair agreed to close two of the three previous recommendations, and the recommendation related to accessibility of licensing and inspection documentation remain open with modifications and be moved from the Technical Staffing and Training performance indicator to the Technical Quality of Licensing Actions performance indicator. The team recommended and the MRB Chair agreed with three new recommendations for improved program performance related to the implementation of Pre-Licensing guidance, Risk-Significant Radioactive Materials checklist, and establishing a financial assurance program consistent with State regulations. Based on the findings and the criteria in the NRC Management Directive 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)," the team recommended and the MRB Chair agreed that Rhode Island be removed from Monitoring and placed on a period of Heightened Oversight. The team recommended and the MRB Chair agreed that Rhode Island be found adequate to protect public health and safety, but needs improvement, and compatible with the NRC's program. The team recommended and the MRB Chair agreed that the next periodic meeting take place in approximately 1 year with a full IMPEP review in approximately 2 years. As a result, of being placed on Heightened Oversight, Rhode Island has prepared a Program

Improvement Plan (PIP), participated in bimonthly conference calls, and submitted status reports prior to each call with the appropriate staff from Rhode Island and NRC. The initial PIP was submitted to the NRC in February 2022 ([ML22101A121](#)) and approved on May 10, 2022 ([ML22126A047](#)). Rhode Island submitted the most recent updated PIP on November 28, 2022 ([ML23027A134](#)), in advance of the periodic meeting

## 2.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC and Agreement State radiation control programs during an IMPEP review. 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. Each of these indicators was discussed during the November 30, 2022, periodic meeting.

### 2.1 Technical Staffing and Training (2021 IMPEP review: Satisfactory, but needs improvement)

The Program is comprised of a supervisor and four technical staff. This equates to approximately 2.9 full-time equivalent in the radiation control program. All four technical staff are fully qualified inspectors and the fourth is close to achieving full qualification. Three of the four technical staff are fully qualified license reviewers, and one staff member is working toward becoming fully qualified. Rhode Island did not have any open vacancies at the time of the periodic meeting. There have been no staffing changes since the 2021 IMPEP review.

In order for Rhode Island to develop a balance in the staffing of licensing and inspection programs, Rhode Island staff completed core training classes offered by the NRC, held license review training, and organized and conducted a review of an academic broad scope license. Rhode Island also developed and implemented a license review rotation schedule to distribute the licensing work amongst the staff. In addition, Rhode Island continued to work toward having staff, other than the principal license reviewer, review 10 licensing actions.

Rhode Island has a training and qualification program that is compatible with the NRC's IMC 1248. Qualified licensing and inspection staff are completing at least 24 hours of refresher training every 2 years.

### 2.2 Status of the Materials Inspection Program (2021 IMPEP review: Satisfactory)

Rhode Island completed 10 Priority 1, 2, and 3 inspections since the 2021 IMPEP Review. At the time of the periodic meeting, there was one priority five inspection overdue. The licensee is out of state and has not performed work in the state for Rhode Island to conduct the inspection. This licensee is required to inform Rhode

Island when performing licensed activities in the state to provide Rhode Island with an opportunity to inspect the licensee. Alternate methods to review this licensee's performance, included verifying inspection status and regulatory compliance with the home state, was discussed with Rhode Island.

Rhode Island's approach to conducting reciprocity inspections has been risk informed. Rhode Island performed two reciprocity inspections in 2022.

2.3 Technical Quality of Inspections  
(2021 IMPEP review: Satisfactory)

Rhode Island completed 10 Priority 1, 2, and 3 inspections since the 2021 IMPEP review. There were no initial inspections. Rhode Island continued to protect public health and safety with well documented inspection results. Rhode Island developed checklists to ensure all information was well documented within reports. Rhode Island conducted inspections at the same frequency as the NRC. Rhode Island typically issued inspection results within a week. If inspection results indicated no violations, Rhode Island's inspectors issue a form in the field to the licensee documenting the inspection findings. All inspection reports were reviewed and signed by the Supervising Radiological Health Specialist. The Supervising Radiological Health Specialist completed inspector accompaniments for three of the inspectors. The fourth staff member was qualified but does not perform inspections.

Rhode Island's inspection procedures are compatible with Inspection Manual Chapter (IMC) 2800.

2.4 Technical Quality of Licensing Actions  
(2021 IMPEP review: Unsatisfactory)

At the time of the meeting, Rhode Island completed approximately 30 licensing actions and there was no backlog of licensing actions. Three licensing actions were in progress during the time of the meeting. The 2021 IMPEP review resulted in four recommendations for this indicator. One recommendation was modified from the 2016 IMPEP review and the 2021 team made three new recommendations.

**Recommendation:** Rhode Island management take measures to ensure proper licensing and inspection documentation is complete and stored in centralized filing system.

**Status:** Rhode Island's Supervising Radiological Health Specialist created an Access Database to serve as a centralized filing system for licensing and inspection documentation to assist the program. Rhode Island is in the process of conducting an internal audit of licensing. The audit will ensure that all documentation in the tie down condition on licenses are available and digitized. Since the 2021 IMPEP review, Rhode Island created a new organization system, acquired adobe acrobat for all staff, and transferred data from one individual's inbox. Rhode Island is continuing to work on digitizing all the current licenses and is adding all newly received amendments and all new license actions into their SharePoint library. As of this meeting, 13 of its 40 licenses had been audited. Rhode Island reported the audit is taking longer than expected. During the periodic meeting, Rhode Island demonstrated how the Access database will be used to track incoming licensing actions.

**Recommendation:** Rhode Island implement the Pre-Licensing guidance for all new applicants and transfers of control and provide training to ensure that staff understands how to properly identify unknown entities and document the basis for the known entity determination

**Status:** Rhode Island completed specific training in the implementation of the Pre-Licensing checklist in February 2022. Rhode Island used previous actions to practice using the checklist, however, no actions have been received since the IMPEP review that require the use of the Pre-Licensing Guidance. Rhode Island put a plan in place to perform peer reviews for accuracy and completeness. During this periodic meeting, the



updated procedure and training were reviewed. The checklist contained all necessary information for the Rhode Island to determine a basis for confidence and complete a thorough review for new license applications.

**Recommendation:** Rhode Island implement the Risk Significant Radioactive Materials (RSRM) checklist and provide additional training on the use of the checklist.

**Status:** Rhode Island provided specific training on programmatic implementation and use of the RSRM checklist in February 2022. The checklist was added to the licenses reviewed during the IMPEP review. Staff used previously received actions that should have had the RSRM checklist in the file and implemented the checklist for those actions. No missed implementation of security requirements was identified because of the missing paperwork.

**Recommendation:** Rhode Island implement a financial assurance program consistent with State regulations; that licenses that authorize possession of radioactive material in excess of quantities requiring financial assurance provide financial assurance; and, that financial assurance license conditions be consistent with possession limits authorized on the license.

**Status:** Since the 2021 IMPEP review, Rhode Island contacted all licensees who were authorized to possess quantities of material requiring financial assurance. Two licensees chose to maintain a license that authorized possession of material in quantities requiring financial assurance. All other licenses were amended to lower the licensee's possession limits to below amounts that require financial assurance. The appropriate financial assurance documentation was collected from both licensees and stored in a secure location. Rhode Island developed a process to review licenses to determine if financial assurance is required based on the maximum amounts the licensee may possess. All tasks and milestones have been completed with this recommendation. The Access Database created by Rhode Island was used to assist in the reviews for license renewals and included a review of license conditions and tie-down documentation.

## 2.5 Technical Quality of Incident and Allegation Activities (2021 IMPEP review: Satisfactory)

There were no events that occurred that were required to be reported to the NRC since the 2021 IMPEP review. No allegations were received directly by Rhode Island. The NRC referred one allegation. Rhode Island took prompt and appropriate action in response to the concerns raised. The allegation reviewed was appropriately closed, the concerned individual was notified of the actions taken, and the concerned individual's identity was protected in accordance with State law. Rhode Island's procedures are compatible to the NRC's allegation procedures.

## 3.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Legislation Regulation and Other Program Elements (LROPE), (2) Sealed Source and Device (SS&D) Evaluation Program, (3) Low-Level Radioactive Waste Disposal (LLRW) Program, and (4) Uranium Recovery (UR) Program. The NRC's Agreement with Rhode Island only includes non-common performance indicator LROPE. The NRC's Agreement with Rhode Island does not relinquish regulatory authority for a SS&D or UR Program; therefore, only the first and third non-common performance indicators applied to this review.

### 3.1 Legislation, Regulation, and Other Program Elements (2021 IMPEP review: Satisfactory)

Rhode Island became an Agreement State on January 1, 1980. The current effective statutory authority is contained in Section 23-1.3 – Radiation Control, of the Rhode Island Statutes. The Rhode Island Department of Health is designated as the State’s Radiation Control Agency. No legislation affecting the radiation control program was passed since the 2021 IMPEP review.

Rhode Island’s administrative rulemaking process takes approximately 12-18 months from drafting to finalizing a rule. The public, the NRC, other agencies, and potentially impacted licensees and registrants are offered an opportunity to comment during the process. Comments are considered and incorporated, as appropriate, before the regulations are finalized and approved. The State’s rules and regulations are subject to “sunset” laws. These laws require Rhode Island to refile regulations every five years. The last refiling was completed in January 2022.

At the time of this meeting, no amendments were overdue. During the 2021 IMPEP review, there were outstanding comments on final regulations from the State’s adoption of the 10 CFR by reference. During this meeting, Rhode Island stated that the comments were addressed and in regulations which were promulgated on May 26, 2022.

### 3.2 Low-Level Radioactive Waste Disposal Program

In 1981, the NRC amended its Policy Statement, “Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement,” to allow a State to seek an amendment for the regulation of LLRW as a separate category. Those States with existing Agreements prior to 1981 were determined to have continued LLRW disposal authority without the need for an amendment. Although, Rhode Island has authority to regulate a LLRW disposal facility, the NRC has not required States to have a program for licensing a disposal facility until such time as the State has been designated as a host State for a LLRW disposal facility. When an Agreement State has been notified or becomes aware of the need to regulate a LLRW disposal facility, it is expected to put in place a regulatory program that will meet the criteria for an adequate and compatible LLRW disposal program. There are no plans for a LLRW disposal facility in Rhode Island. Accordingly, this topic was not discussed during the periodic meeting.

## 4.0 SUMMARY

During the periodic meeting, Rhode Island indicated that they had completed most of the tasks that were identified in the PIP to address the recommendations. Rhode Island is proactively addressing the open items. Rhode Island staff completed qualifications so that there were more than one qualified license reviewer. Rhode Island’s well-balanced staffing plan included the supervisor working toward helping staff in licensing. Rhode Island indicated that some tasks have taken longer than expected, such as completing the audit of all licenses. The item regarding financial assurance was completed. All other items were on track to be completed by the beginning of 2023. No action items or concerns were identified during this periodic meeting.

The results of the periodic meeting will be discussed during the February 9, 2023, MRB meeting. Based on the progress Rhode Island has made, it is recommended that the next full IMPEP review be performed in October 2023 as recommended by the 2021 IMPEP review team.

**Agenda for Management Review Board Meeting  
February 7, 2023, 2018, from 1:00 p.m. to 2:00 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 the Periodic Meeting held with the Rhode Island Agreement State Program
4. Adjournment

MRB Meeting Invitees:

Cathy Haney, OEDO  
Jessica Bielecki, OGC,  
Robert Lewis, NMSS  
Mohammed Shuaibi, Region III  
Vanessa Danese, OAS Representative  
Kevin Williams, NMSS  
Theresa Clark, NMSS  
Blake Welling, Region I

Melissa Ralph, Region I  
Farrah Gaskins, Region I  
Latischa Hanson, Region I  
Bethany Cecere, NMSS  
Robert Johnson, NMSS  
Kathy Modes, NMSS  
Duncan White, NMSS  
Alexander Hamm, Rhode Island

01/31/2023 Memo to Management Review Board re: Rhode Island Draft Periodic Meeting Summary DATE  
February 1, 2023

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**ADAMS Accession No.: Memo ML23028A043**

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