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

February 16, 2022

Ms. Seema Dixit, Director
Division of Environmental Health
Rhode Island Department of Health
3 Capitol Hill, Room 306
Providence, RI 02908-5097

Dear Ms. Dixit:

On January 20, 2022, the Management Review Board (MRB), which consisted of U.S. Nuclear Regulatory Commission (NRC) senior managers and an Organization of Agreement States MRB member, met to consider the results of the Integrated Materials Performance Evaluation Program (IMPEP) review of the Rhode Island Agreement State Program. The MRB Chair in consultation with the MRB members found the Rhode Island Agreement State Program adequate to protect public health and safety but needs improvement and compatible with the NRC's program. Because of the significance of the findings, the MRB determined that the Rhode Island Agreement State Program should enter a period of Heightened Oversight. Heightened Oversight is an increased monitoring process the NRC uses to follow the progress of improvement needed in an Agreement State Program. It involves preparation of a Program Improvement Plan (PIP), bimonthly conference calls, and submission of status reports prior to each call with the appropriate Rhode Island and NRC managers and staff members.

In response to this the MRB's decision, the Program is requested to prepare and submit a PIP. I ask that you have your staff discuss the required elements of this PIP with Kevin Williams, Director, Division of Materials Safety, Security, State and Tribal Programs, Office of Nuclear Material Safety and Safeguards, to ensure that a path forward and measures of success are clearly identified. The PIP should be submitted within 30 days of receipt of this letter. Upon review of your PIP, the NRC staff will schedule the first conference call. The initial conference call should be scheduled and conducted no later than 60 days from receipt of this letter.

The enclosed final report documents the IMPEP team's findings and summarizes the results of the MRB meeting. Based on the results of the current IMPEP review, the MRB directed that the next periodic meeting take place in approximately 1 year and the next IMPEP review take place in approximately 2 years.

I appreciate the courtesy and cooperation extended to the IMPEP team during the review. I also wish to acknowledge your continued support for the Agreement State program. I look forward to our agencies continuing to work cooperatively in the future.

Sincerely,

Catherine Haney Signed by Haney, Cathy on 02/16/22

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

Enclosure:
Final Rhode Island Agreement State Program IMPEP Report

cc: Jennifer Olsen-Armstrong, Chief
Center for Health Facilities Regulation

Joseph Catalano, Chief of Management Services
Center for Health Facilities Regulation

Alexander Hamm, Supervising Radiological Health Specialist
Center for Health Facilities Regulation

SUBJECT: FINAL RHODE ISLAND AGREEMENT STATE PROGRAM INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM REPORT
DATE: FEBRUARY 16, 2022

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Protecting People and the Environment

INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

REVIEW OF THE RHODE ISLAND AGREEMENT STATE PROGRAM

October 19-22, 2021

FINAL REPORT

Enclosure

EXECUTIVE SUMMARY

The Integrated Materials Performance Evaluation Program (IMPEP) review was conducted in Providence, Rhode Island, from October 19-22, 2021. In-person inspector accompaniments were conducted between April 27-29, 2021. The Management Review Board (MRB) Chair in consultation with the MRB members found Rhode Island adequate to protect public health and safety but needs improvement and compatible with the U.S. Nuclear Regulatory Commission (NRC) program. Because of the significance of the findings, the MRB determined that the Rhode Island Agreement State Program should enter a period of Heightened Oversight

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

The team recommended and the MRB Chair agreed that two of the three previous recommendations be closed, 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 also 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.

The team determined that, since the 2016 IMPEP review, the declining performance in the indicator Technical Quality of Licensing Actions was mainly due to: (1) significant management turnover, (2) a lack of management oversight of programmatic activities involving licensing actions, and (3) incomplete licensing documentation.

Rhode Island has been on Monitoring since the 2011 IMPEP review. 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 Heightened Oversight. Heightened Oversight is an increased monitoring process used by the NRC to follow the progress of improvement needed in an Agreement State program. Being placed on Heightened Oversight involves preparation of a Program Improvement Plan, bimonthly conference calls, and submission of status reports prior to each call with the appropriate Rhode Island and NRC staffs. During the review, the team considered whether Rhode Island should remain on Monitoring instead of being placed on Heightened Oversight. Based on the current findings, however; the team determined that remaining on Monitoring is not appropriate because:

- Rhode Island has experienced significant management turnover, and
- Rhode Island’s lack of stable leadership led to inconsistencies in licensing.

Accordingly, 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.

1.0 INTRODUCTION

The Rhode Island review was conducted on-site from October 19-22, 2021, by a team of technical staff members from the U.S. Nuclear Regulatory Commission (NRC) and the State of Wisconsin. Team members are identified in Appendix A. In-person inspector accompaniments were performed between April 27-29, 2021. 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 the NRC Management Directive (MD) 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)," dated July 24, 2019. Preliminary results of the review, which covered the period of March 11, 2016 to October 22, 2021, were discussed with the Rhode Island 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 provided to Rhode Island on January 24, 2020, and is available in the NRC's Agencywide Documents Access and Management System (ADAMS) using the Accession Number ML20024E898. The review date was subsequently changed so an updated questionnaire was provided on August 11, 2021 (Accession Number ML21223A166). Rhode Island provided its response to the questionnaire on October 4, 2021 (Accession Number ML21279A319).

Rhode Island is administered by the Radiation Control Agency which is located within the Center for Health Facilities Regulation. The Center is part of the Rhode Island Department of Health. The Organization charts provided by Rhode Island as part of its questionnaire response is available in ADAMS using the Accession Number ML21279A311).

A draft of this report was issued to Rhode Island on December 6, 2021, for factual review and an opportunity to comment (ADAMS Accession Number ML21334A518). Rhode Island responded to the draft report by e-mails dated December 30, 2021, and January 4, 2022 (ADAMS Accession Number ML22003A008 and ML22004A226, respectively) from Alexander Hamm, Supervising Radiological Health Specialist, Rhode Island Center for Health Facilities Regulation. The Management Review Board (MRB) was convened on January 20, 2022, to discuss the team's findings and recommendations. This meeting was conducted remotely due to travel restrictions associated with the pandemic.

At the time of the review, Rhode Island regulated 42 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 Rhode Island. The team evaluated the information gathered against the established criteria for each common and applicable non-common performance and made a preliminary assessment of the State's performance.

2.0 PREVIOUS IMPEP REVIEW AND STATUS OF RECOMMENDATIONS

The previous IMPEP review concluded on March 10, 2016. The final report is available in ADAMS (Accession Number ML16174A024). The results of the review and the status of the associated recommendations are as follows:

Technical Staffing and Training: Satisfactory but Needs Improvement

Recommendation: The MRB recommends that the Rhode Island management take measures to ensure proper documentation of inspection tracking dates and ensure the Program's licensing and inspection files are complete.

Status: The 2016 IMPEP review team noted that staffing challenges existed in Rhode Island for several years, resulting in a backlog of licensing renewal actions, poor tracking of inspection due dates leading to many overdue inspections being performed, and missing documentation in the licensing and inspection documentation. During the 2016 MRB meeting, the MRB discussed the review team's observations of missing licensing and inspection documents, as well as errors in the inspection tracking system, which were determined to be attributed to the long-standing staffing vacancies.

The 2021 IMPEP review team found that the previous staffing issues had been resolved and at the time of the review, Rhode Island was fully staffed with two staff members currently in various stages of qualification. The licensing renewal backlog no longer existed, and the tracking of inspection due dates had been resolved. However, the review team found that while Rhode Island had begun to develop a process for ensuring the documentation was complete, the team determined that significant portions of documentation remained missing. Furthermore, the review team found that at least one person within the Rhode Island Program maintained electronic files on their individual computer which prevented access by other members of the program staff. As a result, some inspections were performed without the benefit of previous inspection information or changes in licensing information.

The review team also noted that there was significant management turnover during the review period. Since the 2016 IMPEP review, three individuals worked as the Radiation Control Program Director, and four individuals worked as the Program Supervisor. Although both management positions are currently occupied, the Rhode Island staff informed the review team that the routine turnover in management positions resulted in inconsistent leadership.

The review team found that the lack of consistent and stable management also contributed to inconsistencies in licensing. Therefore, based on the above, the review team determined that Rhode Island did not meet the intent of the recommendation and did not achieve sustained satisfactory performance for the review period.

The review team recommended and the MRB Chair agreed that this recommendation remain open and be modified to read as follows:

- Rhode Island management take measures to ensure licensing and inspection documentation is complete and stored in a centralized filing system.

The MRB Chair also determined that the modified recommendation should be moved from the Technical Staffing and Training performance indicator to the Technical Quality of Licensing Actions performance indicator.

Status of Materials Inspection Program: Unsatisfactory

Recommendation: 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 (IMC) 2800.

Status: Since the 2016 IMPEP review, Rhode Island performed 76 inspections. During the review period, one Priority 3 inspection and one initial inspection were performed overdue. Staff and management were aware of both inspections and the associated overdue dates but were unable to perform the inspections due to extenuating circumstances. The Priority 3 inspection involved a medical facility and was delayed at the request of the facility due to the COVID-19 pandemic. Additionally, the overdue initial inspection was of an out-of-state industrial radiographer who applied for a temporary jobsite only license in Rhode Island. In this instance, staff was unable to complete the inspection due to restrictions on working after normal business hours and the licensee performing its work late at night. The staff performed a compliance (i.e., paperwork) inspection of the licensee and confirmed with its primary regulator that there were no performance concerns for this licensee. The program intends to conduct a performance-based inspection once the licensee has worked in Rhode Island during routine business hours. The team noted that two inspections were conducted overdue; however, both inspections were overdue related to circumstances outside of Rhode Island's control and the team concluded that Rhode Island continued to maintain reasonable assurance of adequate protection of public health and safety. Therefore, the team determined that Rhode Island met the intent of the recommendation and achieved satisfactory performance for the review period.

The team recommended and the MRB Chair agreed that this recommendation be closed.

Technical Quality of Inspections: Satisfactory
Recommendation: None

Technical Quality of Licensing Actions: Satisfactory

Recommendation: The MRB recommends that Program management develop and implement an action plan to reduce the licensing renewal backlog.

Status: Following the 2016 IMPEP review, the Program prioritized completion of the pending renewal backlog. The Program issued 5 renewed licenses in 2016, 14 in 2017, and 6 in 2018. Since 2018, the Program has had no renewals pending for more than 1 year and typically issues renewals within 2-3 months of receipt.

The team recommended and the MRB Chair agreed that this recommendation be closed.

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 but needs improvement and compatible with the NRC's program. Rhode Island remained on Monitoring.

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 Rhode Island's performance with respect to the following performance indicator objectives:

- A 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 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

The Rhode Island Program is comprised of a supervisor and four technical staff. Three of the four technical staff are fully qualified inspectors and the fourth is close to achieving full qualification. Two of the four technical staff are fully qualified license reviewers; however, only one currently performs licensing activities. Another technical staff member has recently started the licensing qualification process. This equates to approximately 2.9 full-time equivalent in the radioactive materials program. The four technical staff are also responsible for performing x-ray, mammography, and tanning. Rhode Island did not have any open vacancies at the time of the review.

The team noted that the Rhode Island Program's training and qualification program is compatible with the NRC's IMC 1248. The team determined that qualified licensing and inspection staff are completing at least 24 hours of refresher training every 2 years.

The 2016 IMPEP review team noted that Rhode Island had long-term technical staffing challenges that resulted in licensing renewal backlogs, overdue inspections due to poor tracking of inspection due dates, and incomplete documentation in both licensing and inspection documentation. The review team found that the technical staffing challenges had been resolved and at the time of the review, Rhode Island was fully staffed. The

team also found that the licensing renewal backlog had been resolved. However, the review team found that while Rhode Island had begun to develop a process for ensuring the completeness of each licensee file, significant portions of licensing and inspection documents were missing. This issue was also noted during the 2017 and 2018 periodic meetings. Furthermore, the review team found that some staff members maintained electronic files on their individual computers, which prevented access by other members of the program staff. As a result, some inspections were performed without the benefit of previous inspection information or changes in licensing information.

During interviews, the staff acknowledged the lack of a centralized filing system, and the fact that records were not properly organized due, in part, to the lack of administrative assistance. Staff also stated that with other State-related duties outside of the Agreement State program activities, they have little time to file documentation. The Supervisor stated that administrative assistance would be helpful in maintaining the filing of inspection and licensing documents.

The 2016 IMPEP report noted longstanding technical staff vacancies. A January 14, 2016, letter of support to the Governor of Rhode Island (ML15329A031) stressed the importance of addressing staffing vacancies to ensure the long-term success and viability of the Program. In its February 1, 2016 response, the Rhode Island Department of Health described the State's plan to address the staffing vacancies. On March 3, 2016, Rhode Island posted one technical staff position and a licensing aide position. Rhode Island filled these vacancies on May 29, 2016, and June 12, 2016, respectively, and the Program has remained fully staffed at the technical staff level since that time.

While the technical staffing challenges have been resolved, the review team noted significant changes in management within the Program. Since the 2016 IMPEP review, three individuals worked as the Director, and four individuals worked as the Program Supervisor. Although both management positions were consistently filled quickly and are currently occupied, the Rhode Island staff informed the review team that the routine turnover in management positions resulted in inconsistent direction. The review team found that the management turnover also contributed, in part, to the challenges discussed in the Technical Quality of Licensing Actions section of this report, as discussed in Section 3.4. Therefore, since documentation remain incomplete, the review team determined that Rhode Island did not meet the full intent of the recommendation. The team recommends that Program management take measures to ensure licensing and inspection documentation is complete.

The team noted that there were no significant impacts on this indicator related to the COVID-19 pandemic. Although the pandemic affected the number of in-person training opportunities, there were only minor impacts to the qualification process. Staff continued to enroll in NRC training classes as they became available.

c. Evaluation

The team determined that during the review period Rhode Island met the performance indicator objectives listed in Section 3.1.a, except for:

- There was not a balance in staffing of the licensing and inspection programs.
- Vacancies, especially senior-level positions, were not filled in a timely manner.

Although the technical staffing issues noted during the 2016 IMPEP review have been resolved, there have been multiple management changes over the review period. The team concluded that this turnover contributed, in part, to observed programmatic issues including those described in Section 3.4. Since the previous review, three individuals worked as the Director and four individuals worked as the Program Supervisor. The technical staff stated that the frequent changes in Rhode Island's leadership along with the lack of a centralized filing system contributed in part, to a continued lack of licensing and inspection file accessibility by all staff members.

At the time of the review, the team determined that even though the Rhode Island Program is currently fully staffed, only one technical staff member was performing licensing reviews, even though two staff members were qualified to perform licensing reviews. This staffing arrangement, which had been in place for 3 years, was problematic when the primary qualified license reviewer was on medical leave for several weeks while the licensing documentation was inaccessible to other members of the staff. As a result, Rhode Island could not perform licensing actions for several weeks. The team identified additional program performance impacts in the licensing indicator that were found to be related to having only one qualified license reviewer participating in licensing activities, an inconsistent peer review process, and frequent management changes. Rhode Island self-identified the need for a second license reviewer prior to the IMPEP review and had already begun the process of cross training one of the inspectors as a second license reviewer. The team considered the need for a recommendation to cross train staff; however, determined that it was not warranted since Rhode Island had already initiated actions to address this issue.

The 2016 IMPEP review found this indicator to be satisfactory but needs improvement. The team discussed whether the improvements made by Rhode Island should result in a finding of satisfactory for this indicator. The team considered the multiple management changes and their contribution to the program's performance. The team concluded that the management turnover contributed in part to Rhode Island's inability to fully meet the intent of the previous recommendation and contributed, in part, to the issues seen in licensing. The team also concluded that the recommendation issued during the 2016 IMPEP review should remain open and be modified to reflect the improvements made by Rhode Island and to identify the areas that still need to be addressed. The review team recommended the following modified recommendation:

- Rhode Island management take measures to ensure licensing and inspection documentation is complete and stored in a centralized filing system.

The review team reviewed Section III.B.2 in MD 5.6 regarding consideration of a finding of satisfactory but needs improvement. The team noted that the following example:

- Staffing trends that could have an adverse impact on the quality of the program are not consistently tracked, analyzed, or addressed by program management in a timely manner.

The team determined that the performance issues were due, in part, to significant management turnover during the review period. Based on the criteria in MD 5.6, the team recommended that Rhode Island's performance with respect to the indicator, Technical Staffing and Training, be found satisfactory but needs improvement.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found Rhode Island's performance with respect to this indicator satisfactory, but needs improvement. The MRB Chair agreed with the team's recommendation that the 2016 IMPEP review recommendation should remain open and be modified to reflect the improvements made by Rhode Island and to identify the areas that still need to be addressed. The MRB Chair also determined that the modified recommendation should be moved from the Technical Staffing and Training performance indicator to the Technical Quality of Licensing Actions performance 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, "Materials Inspection Program," 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 State Agreements procedure SA-101, "Reviewing the Common Performance Indicator: Status of the Materials Inspection Program," and evaluated Rhode Island'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

Rhode Island performed 71 Priority 1, 2, and 3 inspections, and 5 initial inspections during review period. Of those inspections, one Priority 3 inspection and one initial inspection were conducted overdue. The team determined that the Priority 3 inspection was conducted approximately 1 month overdue for reasons related to the COVID-19 pandemic. Specifically, the medical licensee requested that Rhode Island delay the inspection until pandemic restrictions were relaxed. Rhode Island maintained contact with the facility, and as soon as pandemic restrictions were relaxed, completed the inspection. Regarding the overdue initial inspection, the team determined that this inspection was performed approximately 15 months after license issuance or 3 months

overdue. This was an initial inspection for an out-of-state industrial radiography licensee who typically only performs work off hours in Rhode Island. Rhode Island inspectors are unable to perform work outside of their normal work hours without prior management approval. This limitation does not apply to or adversely affect off hours emergency response activities. These approvals are granted in limited circumstances. Therefore, as a result of these circumstances, the inspection performed was a compliance (i.e., paperwork) inspection. It was noted that the licensee undergoes annual inspections where its permanent storage facility is located, and staff have communicated with this regulator about this licensee's performance. Additionally, the staff continue to communicate with the licensee to determine if any observable work is scheduled during staff working hours. Rhode Island's management stated that staff will inspect the licensee's performance as soon as an opportunity becomes available. Additionally, the team discussed with management and staff the possibility of the licensee visiting the Rhode Island Offices or perhaps meeting in a central location if the licensee finished a job near the start of staff working hours. This would allow for staff to, among other things, inspect the truck and its alarms, look at transportation paperwork, talk with radiographers, and check dosimetry. Management and staff were open to this suggestion and will discuss it with the licensee to see if an opportunity presents itself.

The review team noted that Temporary Instruction 003, "Evaluating the Impacts of the COVID-19 PHE as part of the Integrated Materials Performance Evaluation Program (IMPEP)," states, in part, that for inspections that exceed the scheduling window with overdue dates falling inside the defined timeframe of the COVID-19 pandemic, the number of overdue inspections should be noted in the report but should not be counted in the calculation of overdue inspections. Of the overdue inspections noted above, one Priority 3 inspection was performed overdue due to impacts related to the COVID-19 pandemic. Therefore, the team did not include this inspection when performing the calculation. The team determined that Rhode Island performed 1.3 percent of inspections overdue during the review period. As discussed in Section 2.0, there was one recommendation from the 2011 IMPEP review kept open through the 2016 IMPEP review regarding conducting inspections in accordance with assigned inspection frequencies. Rhode Island made this a focus area during this review period and made programmatic changes to ensure sustained performance in this area and ensure compliance with inspection priorities IMC 2800. The team noted that two inspections were conducted overdue, however both inspections were overdue related to circumstances outside of the Rhode Island's control. Therefore, the review team recommends that this recommendation be closed.

The team noted that Rhode Island's inspection frequencies are consistent with similar license types described by the NRC's inspection program. A sampling of 15 inspection reports indicated that 2 of the inspection findings were communicated to the licensees beyond State's goal of 30 days after the inspection exit. In both instances, the delays were attributed to the enforcement process.

Rhode Island inspected 14 of the 44 reciprocity licenses during the review period, and more than 20 percent of candidates each year with the exception of calendar year 2020 which was impacted by the COVID-19 pandemic. The review team noted that Rhode Island's guidance for conducting reciprocity inspections is consistent with the guidance found in the NRC's IMC 2800. The review team reviewed the reciprocity inspections and determined that these were performed consistent with this policy.

c. Evaluation

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

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found Rhode Island's performance with respect to this indicator satisfactory.

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 State Agreements procedure SA-102, "Reviewing the Common Performance Indicator: Technical Quality of Inspections," and evaluated Rhode Island'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 review team evaluated 15 inspection reports and enforcement documentation, and interviewed inspectors involved in materials inspections conducted during the review period. The review team reviewed casework for inspections conducted by all of Rhode Island's inspectors and covered medical, industrial, commercial, and academic licenses. Based on its review of inspection documentation, the review team found that all inspections were well documented, and inspection findings were consistent with inspection procedures, and regulatory requirements.

A team member accompanied three inspectors on April 27-29, 2021. The inspector accompaniments were conducted in-person. The team found that inspectors were well-prepared and thorough, and assessed the impact of licensed activities on health, safety, and security. Inspectors observed the use of radioactive materials whenever possible. During interviews of licensee staff, inspectors used open ended questions, and were able to develop a basis of confidence that radioactive materials were being used safely and securely. Any findings observed were brought to the user's attention at the time of the inspection and again to the licensee's management during the inspection closeout. All findings and conclusions were well-founded and documented. The inspector accompaniments are identified in Appendix B.

The team found that all supervisory accompaniments were performed at least annually for all qualified inspectors during each year of the review period and continued to be performed for all inspectors during the pandemic. During time periods where the first line supervisor position was vacant, senior staff performed the accompaniment.

The team determined that Rhode Island had an adequate supply of properly calibrated radiation detection equipment to support the inspection program. Calibrations were performed annually. The team reviewed inspection records and found that surveys had been performed with properly calibrated survey equipment. There were no impacts from the COVID-19 pandemic for this indicator.

c. Evaluation

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

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found Rhode Island's performance with respect to this indicator satisfactory.

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 Rhode Island 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 State Agreements procedure SA-104, "Reviewing the Common Performance Indicator: Technical Quality of Licensing Actions," and evaluated Rhode Island'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 *Code of Federal Regulations* (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 (RSRM) 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, Rhode Island performed 175 radioactive materials licensing actions. The team evaluated 21 of those licensing actions: The licensing actions selected for review included 6 new applications, 11 amendments, and 4 renewals. The team evaluated casework which included the following license types and actions: broad scope, medical diagnostic and therapeutic, commercial radiopharmacy, industrial radiography, research and development, portable gauges, transfers of control, and financial assurance. The casework sample represented work from both former and current license reviewers. Files containing information for licensee's possessing Category 1 or Category 2 quantities of radioactive material were marked with an identifying label and secured in a lockable file cabinet.

The team determined that approximately half of the licensing actions reviewed were generally well documented and properly addressed health, safety, and security issues. In these cases, deficiency letters were clear and used at appropriate times, and license reviewers were aware of inspection and enforcement history when evaluating license renewals. However, the team identified both isolated and programmatic lapses in the licensing program. For example, the team noted an instance where a medical broad scope renewal application did not include a proper Radiation Safety Officer delegation of authority as it was not signed by licensee management; and a transfer of control noted where the request for license transfer was signed by the seller, not the buyer. The team also noted one instance where an inspector training as a license reviewer independently performed one medical licensing action while the primary license reviewer was on medical leave. The team discussed these incidents with Rhode Island and determined that these were isolated incidents.

Rhode Island's licensing procedure, updated in January 2019, incorporated versions of the NRC's "Checklist to Provide a Basis for Confidence that Radioactive Material will be Used as Specified on the License" (Pre-Licensing guidance) and the RSRM checklist which were compatible with current NRC guidance. However, the team identified a lack of implementation of both checklists. The team noted that lapses in the use of the Pre-Licensing guidance, previously described by the 2016 IMPEP team, had not been corrected. Of the 21 licensing actions reviewed by the team during the current review period, seven should have included the Pre-Licensing guidance and four should have included the RSRM checklist. The team found that the Pre-Licensing guidance was only

used in one of the seven actions, and in that action the documentation was not consistent with the instructions. Additionally, the team did not identify any instances where the RSRM checklist had been used. Based on the lack of implementation of both items, the team is making the following two recommendations:

- 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, and
- Rhode Island implement the RSRM checklist and provide additional training on the use of the checklist.

The team noted that Rhode Island incorporated the financial assurance requirements found in 10 CFR 30.35 by reference; however, the team found that Rhode Island did not apply the requirements during licensing actions. At the time of the review, the team found five licensees had been authorized for possession of radioactive material in quantities that required financial assurance. During interviews, staff initially stated that they were not aware of any licensees who required financial assurance, nor was management aware of any licensees requiring financial assurance. Staff later identified documentation from 2016 showing that one licensee had a decommissioning fund in place whose value is consistent with authorized possession limits; however, neither staff nor management was able to locate financial assurance records for the other four licensees.

When processing both new and renewal license applications, Rhode Island used a standard review checklist. This checklist includes a line item for financial assurance which was typically checked as having been evaluated during the license review. However, licenses issued were not consistent with the NUREG-1556 series guidance, nor did licenses consistently possess standard license conditions for financial assurance. The team identified two license applications, that were approved during the review period, which requested unsealed radioactive material with half-lives exceeding 120 days in quantities which required financial assurance. In these instances, Rhode Island neither collected financial assurance for these licensees, nor applied the unity rule to limit possession of these isotopes. Additionally, the team identified two existing licenses with license conditions that allowed possession of material exceeding financial assurance thresholds, but the restrictions specified in the financial assurance license conditions were inconsistent with the authorized license possession limits. Based on the inconsistent implementation of financial assurance requirements, the team recommends that:

- 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.

The 2016 IMPEP review identified several instances where Rhode Island's centralized recordkeeping system had missing documentation. The 2021 team noted that this issue persists and found that most of the licensing files reviewed were missing documentation. In one case, a license included 12 tie-down documents and only one of the documents was available in the license file. The team found that it was standard practice for license reviewers to keep electronic correspondence on personal computers which were not accessible to all staff. Consequently, inspectors did not always have access to the

legally binding requirements as they prepared for inspections. The team also noted that some staff were not sure how to access older e-mails which had been automatically archived by their e-mail system. This includes e-mails which were tied down on licenses and not otherwise available in the hard copy files or electronic shared drives.

The team also noted that radioactive materials licenses are typically signed by the Program Supervisor. During the times in the review period when the supervisor position was vacant, licenses were signed by the Radiation Control Program Director or by the primary license reviewer. In the first half of the review period, Rhode Island used a peer review process in which the two qualified license reviewers would peer review one another's work. In the second half of the review period, after one of the license reviewers left the Program, there was one primary license reviewer and peer reviews were not performed. Because Rhode Island's peer review process may have identified the licensing performance issues identified by the team, Rhode Island began training a second staff member to perform licensing and peer reviews.

c. Evaluation

The team determined that during the review period Rhode Island met the performance indicator objectives listed in Section 3.4.a, except for:

- Essential elements of license applications were not consistently submitted and elements were not consistent with current regulatory guidance (e.g., Pre-Licensing guidance, 10 CFR Part 37, financial assurance, etc.).
- A license reviewer did not have the proper signature authority for the cases they reviewed independently.
- Applicable guidance documents were available to reviewers; however, were not consistently followed (e.g., NUREG-1556 series, Pre-Licensing guidance, regulatory guides, etc.).
- Licensing practices for RSRM were not appropriately implemented including the physical protection of Category 1 and Category 2 quantities of radioactive material (10 CFR Part 37 equivalent).

The team determined that while Rhode Island was generally following the NRC licensing guidance, there were noted instances where guidance was not consistently followed (e.g., Pre-Licensing guidance), and in some cases not implemented at all (e.g., RSRM). The team noted that records being maintained on the staff's personal computers instead of being in the centralized filing system, made it difficult for inspectors to identify the licensee's commitments when planning and performing inspections.

The team identified only one instance where Rhode Island used the Pre-Licensing guidance checklist out of seven cases where it was applicable; and the team could identify no instances where the RSRM checklist was applied. The team noted that not using these two guidance documents presents a potential security risk for RSRM applicants.

The team also noted one instance where an unqualified staff member training as a license reviewer independently performed a medical licensing action while the primary qualified license reviewer was out on medical leave. The action was not peer reviewed but was signed out by the Program Director.

The team noted that financial assurance requirements were inconsistently applied.

Both staff and management stated they were not aware of any licensees who required financial assurance; however, the team found cases where licenses were authorized for quantities requiring financial assurance, but the requirement had not been applied. The team identified a case where a licensee had financial assurance in place, but the staff did not realize it.

Based on the above, the team recommends the following three recommendations for improved program performance:

- Implement the Pre-Licensing guidance (and any updates, as necessary) and provide training to ensure staff understands how to properly identify unknown applicants and transfer of control requests, and how to document the basis for the known entity determination.
- Implement the RSRM checklist (and any updates, as necessary) and provide additional training to ensure staff understand when to use the checklist.
- Implement a financial assurance program consistent with State regulations; that licenses that authorize possession of radioactive material in excess of quantities requiring financial assurance post financial assurance; and, that financial assurance license conditions be consistent with possession limits authorized on the license.

In determining the overall rating for this indicator, the team reviewed MD 5.6. Specifically, the team noted that MD 5.6 states in Section III.E.3 that "Consideration should be given to a finding of unsatisfactory when a review demonstrates the presence of one or more of the following conditions." The team determined that, as discussed above, Rhode Island met the following conditions under Section III.E.3 (b) during this review period:

- Evaluation of licensing actions indicates that most do not adequately address health, safety, or security issues that have the potential to result in an overexposure, loss of RSRM, or unintended/unauthorized use of radioactive material.

Therefore, based on the IMPEP evaluation criteria in MD 5.6, the team recommended that Rhode Island's performance with respect to the indicator, Technical Quality of Licensing Actions be found unsatisfactory.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found Rhode Island's performance with respect to this indicator unsatisfactory. The MRB Chair also agreed with the three new recommendations listed above for improved program performance.

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 State Agreements procedure SA-105, "Reviewing the Common Performance Indicator: Technical Quality of Incident and Allegation Activities," and evaluated Rhode Island'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 the 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, two incidents were reported to the NMED by Rhode Island and the Headquarters Operations Officer (HOO). The team reviewed both incidents, a gamma knife medical event and the inability to retract a radiography source following an exposure with personnel overexposures.

When an incident is reported to Rhode Island, management and staff review it and determine the appropriate response based on the circumstances of the incident and its health and safety significance. That response can range from responding immediately to reviewing the incident during the next inspection. For each incident that Rhode Island determines to have potential health and safety significance, inspectors are dispatched immediately. The team also found that Rhode Island responded to incidents in accordance with its established procedure.

When retrieving records for the team, the supervisor identified another incident that had not been reported to the HOO within the required timeframe. The incident involved a patient receiving an underdose of greater than 20 percent of the prescribed dose of iodine-131 due to the patient's inability to swallow the capsule before the gel cap melted in their mouth and had to be removed. Once it was identified as not having been reported, Rhode Island immediately reported it to the HOO. No other incidents were reported late during the review period.

During the review period, no allegations were received directly by Rhode Island and only one was referred by the NRC. The team found that 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.

c. Evaluation

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

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found Rhode Island's performance with respect to this indicator satisfactory.

4.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Compatibility Requirements, (2) Sealed Source and Device Evaluation (SS&D) Program, (3) Low-Level Radioactive Waste Disposal (LLRW) Program, and (4) Uranium Recovery Program. The NRC's Agreement with Rhode Island does not relinquish regulatory authority for a SS&D or uranium recovery program; therefore, only the first and third non-common performance indicators 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 an 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 State Agreements procedure SA-107, "Reviewing the Non-Common Performance Indicator: Legislation, Regulations, and Other Program Elements," and evaluated Rhode Island'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, 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 an 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

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 during the review period.

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 team noted that the State's rules and regulations are subject to "sunset" laws. These laws require Rhode Island to refile their regulations every five years. The last refiling was completed in January 2017. Rhode Island is in the process of working on the next refiling which is due in January 2022.

During the review period, Rhode Island was required to recodify all its rules into a new format as described by the "Rules and Regulations Formatting and Filing Manual." Since Rhode Island had to recodify its existing rules, staff took this opportunity to repeal its radioactive rules and adopt the NRC's regulations by reference. The final rule changes adopting all parts of the 10 CFR required for compatibility were sent to the NRC for review. The process led to the adoption of the following four regulation amendments overdue since the last IMPEP review:

- Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, Parts 30, 40, and 70; due for adoption by August 27, 2016.
- Domestic Licensing of Special Nuclear Material – Written Reports and Clarifying Amendments, Part 70; due for adoption by January 26, 2018.
- Safeguards Information – Modified Handling Categorization, Change for Materials Facilities, Parts 30, 37, 73, and 150; due for adoption by January 28, 2018.
- Miscellaneous Corrections, Parts 37 and 40; due for adoption by September 2, 2018.

The adoption by reference became effective on January 1, 2019, making the late adoptions range from 2 months to 2 years overdue. Going forward, the adoption by reference of NRC regulations will make it easier for Rhode Island to ensure timely adoption of compatible regulations.

At the time of this review no amendments were overdue. However, there were outstanding comments on final regulations from the State's adoption of the 10 CFR by reference. Staff stated the rulemaking package had been drafted, however all non-emergency rulemaking was placed on hold during the COVID-19 pandemic. At the time of the IMPEP review, the package had been submitted to the Department's Rules Coordinator to initiate promulgation. The anticipated effective date is unknown at this time and will depend on impacts from the COVID-19 pandemic.

c. Evaluation

The team determined that during the review period Rhode Island met the performance indicator objectives listed in Section 4.1.a, except for:

- Four regulations adopted by the Agreement State for purposes of compatibility or health and safety were adopted later than 3 years after the effective date of the NRC regulation.

Rhode Island recodified its rules. During that time, Rhode Island took the opportunity to repeal its current regulations and adopt the NRC's regulations required to be adopted for purposes of compatibility and adopt them by reference. This process contributed in part, to four regulation amendments being adopted 2 months to 2 years late. The team determined that although the regulations were not adopted timely, the late adoption did not create a conflict or gap in regulation, and as such, did not adversely affect the program.

Based on the IMPEP evaluation criteria in MD 5.6, the team recommended that Rhode Island's performance with respect to the indicator, Legislation, Regulations, and Other Program Elements, be found satisfactory.

d. MRB Chair's Determination

The MRB Chair agreed with the team's recommendation and found Rhode Island's performance with respect to this indicator satisfactory.

4.2 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, the team did not review this indicator.

5.0 SUMMARY

Rhode Island's performance was found satisfactory for the 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.

Rhode Island's performance was found satisfactory but needs improvement for the performance indicator Technical Staffing and Training which remains unchanged from the previous IMPEP review. Rhode Island's performance was found unsatisfactory for the performance indicator Technical Quality of Licensing Actions. The team recommended and the MRB Chair agreed that two of the three previous recommendations be closed, and the recommendation related to accessibility of licensing and inspection documentation remains open with the following modifications:

- Rhode Island management take measures to ensure licensing and inspection documentation is complete and stored in a centralized filing system.

The MRB Chair also determined that the modified recommendation should be moved from the Technical Staffing and Training performance indicator to the Technical Quality of Licensing Actions performance indicator.

The team also recommended and the MRB Chair agreed with the following three new recommendations for improved program performance:

- Implement the Pre-Licensing guidance (and any updates, as necessary) and provide training to ensure staff understands how to properly identify unknown applicants and transfer of control requests, and how to document the basis for the known entity determination.
- Implement the RSRM checklist (and any updates, as necessary) and provide additional training to ensure staff understand when to use the checklist.
- Implement a financial assurance program consistent with State regulations; that licenses that authorize possession of radioactive material in excess of quantities requiring financial assurance post financial assurance; and, that financial assurance license conditions be consistent with possession limits authorized on the license.

The team determined that the declining performance from the 2016 IMPEP review was mainly due to: (1) significant management turnover, (2) inconsistent management oversight of programmatic activities primarily involving licensing actions, and (3) incomplete licensing and inspection documentation.

Based on the findings and the criteria in MD 5.6, the team recommended and the MRB Chair agreed that Rhode Island be removed from Monitoring and placed on Heightened Oversight. Heightened Oversight is an increased monitoring process used by the NRC to follow the progress of improvement needed in an Agreement State program. It involves preparation of a Program Improvement Plan, bimonthly conference calls, and submission of status reports prior to each call with the appropriate Rhode Island and NRC staffs. Rhode Island has been on Monitoring since the 2011 IMPEP review. During the 2021 IMPEP review, the team considered whether the Rhode Island should remain on Monitoring instead of being placed on Heightened Oversight. Based on the

current findings, however, the team determined that remaining on Monitoring is not appropriate because of the following:

- Rhode Island has experienced significant management turnover, and
- Rhode Island's lack of stable leadership led to inconsistencies in licensing.

Accordingly, 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.

LIST OF APPENDICES

Appendix A IMPEP Review Team Members

Appendix B Inspector Accompaniments

APPENDIX A

IMPEP REVIEW TEAM MEMBERS

Name	**Areas of Responsibility**
Randy Erickson, Region IV	Team Leader Technical Staffing and Training Technical Quality of Incident and Allegation Activities
Monica Ford, Region I	Technical Quality of Inspections Status of Materials Inspection Program Legislation, Regulations, and Other Program Elements Inspector Accompaniments
Megan Shober, Wisconsin	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.: 3D-005-01
License Type: Industrial Radiography	Priority: 1
Inspection Date: 04/27/21	Inspector's initials: TC

Accompaniment No.: 2	License No.: 7B-016-01
License Type: Nuclear Medicine	Priority: 3
Inspection Date: 04/28/21	Inspector's initials: MB

Accompaniment No.: 3	License No.: 3B-114-01
License Type: Nuclear Pharmacy	Priority: 2
Inspection Date: 04/29/21	Inspector's initials: DK