

January 26, 2006

Mr. Robert J. Walker, Director
Radiation Control Program
Department of Public Health
90 Washington Street
Dorchester, MA 02121

Dear Mr. Walker:

As you are aware, the U.S. Nuclear Regulatory Commission (NRC) is using the Integrated Materials Performance Evaluation Program (IMPEP) for the evaluation of Agreement State Programs. Per our discussion, I will be the Team Leader for the IMPEP review of the Massachusetts program scheduled for May 15-19, 2006. In addition to myself, the team will include Shawn Smith, NRC Office of State and Tribal Programs, Tim Harris, NRC Office of Nuclear Material Safety and Safeguards, John Jankovich, NRC Office of Nuclear Material Safety and Safeguards, Sheri Minnick, NRC Region I, and Shawn Seeley, State of Maine.

Enclosed is the document, "IMPEP Questionnaire." The questionnaire is being furnished to you electronically as well as in printed form. I ask that you send your responses by Internet to me at KPH@NRC.GOV by April 28, 2006. I am sending the document in advance of the IMPEP review in order to provide time for you to allocate the staff resources necessary to complete the document by the due date.

Part A of the questionnaire contains questions on the common performance indicators. Part B contains questions on the non-common performance indicators for Agreement States.

Also included with the questionnaire is the document, "Materials Requested to Be Available for the Onsite Portion of an IMPEP Review." We encourage States to have the items listed prepared prior to the IMPEP team's arrival.

I request that you set up an appointment with the appropriate State Senior Management Official to discuss the results of the IMPEP review of the Massachusetts program on the morning of May 19, 2006.

If you have questions, please call me at 301-415-2598.

Sincerely,

/RA/

Kevin Hsueh, Team Leader
Health Physicist
Office of State and Tribal Programs

Enclosure:
As stated

Robert J. Walker

January 26, 2006

Distribution DCD (SP01)

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THarris, NMSS

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

QUESTIONNAIRE

State of Massachusetts

Reporting Period: June 29, 2002 to May 19, 2006

Note: If there has been no change in the response to a specific question since the last IMPEP questionnaire, the State or Region may copy the previous answer if appropriate. Please note that previous IMPEP questionnaires responses can be found on the STP webpage.

A. COMMON PERFORMANCE INDICATORS

I. Technical Staffing and Training

1. Please provide the following organization charts, including names and positions:
 - (a) A chart showing positions from Governor down to Radiation Control Program Director;
 - (b) A chart showing positions of current radiation control program including management; and
 - (c) Equivalent charts for sealed source and device, low level radioactive waste and uranium recovery programs, if applicable
2. Please provide a staffing plan, or complete a listing using the suggested format below, of the professional (technical) person-years of effort applied to the agreement or radioactive material program by individual. Include the name, position, and, for Agreement States, the fraction of time spent in the following areas: administration, materials licensing & compliance, emergency response, LLW, U-mills, other. If these regulatory responsibilities are divided between offices, the table should be consolidated to include all personnel contributing to the radioactive materials program. Include all vacancies and identify all senior personnel assigned to monitor work of junior personnel. If consultants were used to carry out the program's radioactive materials responsibilities, include their efforts. The table heading should be:

¹ Estimated burden per response to comply with this voluntary collection request: 53 hours. Forward comments regarding burden estimate to the Records Management Branch (T-5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the Paperwork Reduction Project (3150-0183), Office of Management and Budget, Washington, DC 20503. If an information collection does not display a currently valid OMB control number, NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

- | | <u>Name</u> | <u>Position</u> | <u>Area of Effort</u> | <u>FTE%</u> |
|----|--|-----------------|-----------------------|-------------|
| 3. | Please provide a listing of all new professional personnel hired since the last review, indicate the degree(s) they received, if applicable, and additional training and years of experience in health physics, or other disciplines, if appropriate. | | | |
| 4. | Please list all professional staff who have not yet met the qualification requirements of license reviewer/materials inspection staff (for NRC, Inspection Manual Chapter (IMC) 1246; for Agreement States, please enclose a copy of your qualification and training procedure. If you do not have a written procedure please describe your qualifications requirements for materials license reviewers and inspectors). For each, list the courses or equivalent training/experience they need to attend and a tentative schedule for completion of these requirements. | | | |
| 5. | Please identify the technical staff who left the Agreement State/Regional DNMS program during this period. | | | |
| 6. | List the vacant positions in each program, the length of time each position has been vacant, and a brief summary of efforts to fill the vacancy. | | | |
| 7. | Does the Agreement State program have an oversight board or committee which provides direction to the program and is composed of licensees and other members of the public? If so, please describe the procedures used to avoid a conflict of interest. | | | |

II. Status of Materials Inspection Program

8. Please identify individual licensees or categories of licensees the State/Region is inspecting more or less frequently than called for in IMC 2800 and state the reason for the difference.
9. Please provide for the review period, the number of Priority 1, 2, and 3 inspections as identified in IMC 2800 that were completed and the number of initial inspections that were completed.
10. Please submit a table, or a computer printout, that identifies inspections of Priority 1, 2, and 3 licensees, and initial inspections that are presently overdue or which were conducted at intervals that exceed the IMC 2800 frequencies over the course of the entire review period. (See STP Procedure SA-101, *Reviewing the Common Performance Indicator, Status of Materials Inspection Program*, for detailed guidance in preparing this information).

At a minimum, the list should include the following information for each inspection that is overdue or conducted overdue during the review period:

- (1) Licensee Name
- (2) License Number
- (3) Priority

- (4) Last inspection date or license issued date if initial inspection
- (5) Date Due
- (6) Date Performed
- (7) Amount of Time Overdue
- (8) Date inspection findings issued

- 11. If you have any overdue inspections, do you have an action plan for completing them? If so, please describe the plan or provide a written copy with your response to this questionnaire.
- 12. Please provide the number of reciprocity licensees that were candidates for inspection per year as described in NRC IMC 1220 and the number of candidate reciprocity inspections that were completed each year during the review period.

III. Technical Quality of Inspections

- 13. What, if any, changes were made to your written inspection procedures during the reporting period?
- 14. Prepare a table showing the number and types of supervisory accompaniments made during the review period. Include:

<u>Inspector</u>	<u>Supervisor</u>	<u>License Category</u>	<u>Date</u>
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- 15. Describe internal procedures for conducting supervisory accompaniments of inspectors in the field.
- 16. Describe or provide an update on your instrumentation, methods of calibration and laboratory capabilities. Are all instruments properly calibrated at the present time? Were there sufficient calibrated instruments available through the review period?

IV. Technical Quality of Licensing Actions

- 17. How many specific radioactive material licenses does the Program regulate at this time?
- 18. Please identify any major, unusual, or complex licenses which were issued, received a major amendment, were terminated, decommissioned, submitted a bankruptcy notification or renewed in this period. Also identify any new or amended licenses that now require emergency plans.
- 19. Discuss any variances in licensing policies and procedures or exemptions from the regulations granted during the review period.

20. What, if any, changes were made in your written licensing procedures (new procedures, updates, policy memoranda, etc.) during the reporting period?
21. Identify by licensee name, license number and type, any renewal applications that have been pending for one year or more. Please indicate why these reviews have been delayed.

V. Responses to Incidents and Allegations

22. For Agreement States, please provide a list of any reportable incidents not previously submitted to NRC (See STP Procedure SA-300, Reporting Material Events for additional guidance, OMB clearance number 3150-0178). The list should be in the following format:

<u>Licensee Name</u>	<u>License #</u>	<u>Date of Incident/Report</u>	<u>Type of Incident</u>
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23. During this review period, did any incidents occur that involved equipment or source failure or approved operating procedures that were deficient? If so, how and when were other State/NRC licensees who might be affected notified? For States, was timely notification made to NRC? For Regions, was an appropriate and timely PN generated? For Agreement States, was information on the incident provided to the agency responsible for evaluation of the device for an assessment of possible generic design deficiency? Please provide details for each case.
24. Identify any changes to your procedures for handling allegations that occurred during the period of this review.

VI. General

25. Please prepare a summary of the status of the State's or Region's actions taken in response to the comments and recommendations following the last review. Provide the results of any program audits (including self audits) completed during the review period.
26. Provide a brief description of your program's strengths and weaknesses. These strengths and weaknesses should be supported by examples of successes, new initiatives, problems or difficulties which occurred during this review period.

B. NON-COMMON PERFORMANCE INDICATORS

I. Legislation and Program Elements Required for Compatibility

27. Please list all currently effective legislation that affects the radiation control program.

28. Are your regulations subject to a "Sunset" or equivalent law? If so, explain and include the next expiration date for your regulations.
29. Please review and verify that the information in the enclosed State Regulation Status sheet is correct. For those regulations that have not been adopted by the State, explain why they were not adopted, and discuss actions being taken to adopt them.

If legally binding requirements were used in lieu of regulations, please describe their use.

30. If you have not adopted all amendments within three years from the date of NRC rule promulgation, briefly describe your State's procedures for amending regulations in order to maintain compatibility with the NRC, showing the normal length of time anticipated to complete each step.

II. Sealed Source and Device Program

31. Prepare a table listing new and amended (including transfers to inactive status) SS&D registrations of sealed sources and devices issued during the review period. The table heading should be:

<u>SS&D Registry Number</u>	<u>Manufacturer, Distributor or Custom User</u>	<u>Product Type or Use</u>	<u>Date Issued</u>	<u>Type of Action</u>
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32. What guides, standards and procedures are used to evaluate registry applications?
33. Please include information on the following questions in Section A, as they apply to the Sealed Source and Device Program:

Technical Staffing and Training - Questions 1-7
 Technical Quality of Licensing Actions - Questions 17-21
 Responses to Incidents and Allegations - Questions 22-24

III. Low-Level Radioactive Waste Disposal Program

34. Please include information on the following questions in Section A, as they apply to the Low-Level Radioactive Waste Disposal Program:

Technical Staffing and Training - Questions 1-7
 Status of Materials Inspection Program - Questions 8-11
 Technical Quality of Inspections - Questions 13-16
 Technical Quality of Licensing Actions - Questions 17-21
 Responses to Incidents and Allegations - Questions 22-24

IV. Uranium Recovery Program

35. Please include information on the following questions in Section A, as they apply to the Uranium Recovery Program:

Technical Staffing and Training - Questions 1-7

Status of Materials Inspection Program - Questions 8-11

Technical Quality of Inspections - Questions 13-16

Technical Quality of Licensing Actions - Questions 17-21

Responses to Incidents and Allegations - Questions 22-24

MATERIALS REQUESTED TO BE AVAILABLE FOR THE ONSITE PORTION OF AN IMPEP REVIEW

Please have the following information available for use by the IMPEP review team when they arrive at your office:

- 9 List of open license cases, with date of original request, and dates of follow up actions
- 9 List of licenses terminated during review period.
- 9 Copy of current log or other document used to track licensing actions
- 9 Copy of current log or other document used to track inspections
- 9 List of Inspection frequency by license type
- 9 List of all allegations occurring during the review period. Show whether the allegation is open or closed and whether it was referred by NRC

ALSO, PLEASE HAVE THE FOLLOWING DOCUMENTS AVAILABLE:

- | | |
|---------------------------------------|-------------------------------------|
| 9 All State regulations | 9 Records of results of supervisory |
| 9 Statutes affecting the regulatory | accompaniments of inspectors |
| authority of the state program | 9 Emergency plan and |
| 9 Standard license conditions | communications list |
| 9 Technical procedures for licensing, | 9 Procedures for investigating |
| model licenses, review guides | allegations |
| 9 SS&D review procedures | 9 Procedures for investigating |
| 9 Instrument calibration records | incidents |
| 9 Inspection procedures and guides | 9 Enforcement procedures, including |
| 9 Inspection report forms | procedures for escalated |
| | enforcement, severity levels, civil |
| | penalties (as applicable) |
| | 9 Job descriptions |

STATE REGULATION STATUS

State: Massachusetts

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)²Rule / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)⁶
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F	N 3/3/97	3/21/97
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not Required
Standards for Protection Against Radiation-Part 20	56 FR 23360; 56 FR 61352; 57 FR 38588; 57 FR 57877; 58 FR 67657; 59 FR 41641; 60 FR 20183; (1/1/94)	1991-3	F	N 3/3/97	3/21/97
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F	N 3/3/97	3/21/97
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F	N 3/3/97	3/21/97
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			Not Required
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	F	N 3/3/97	3/21/97
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F	N 3/3/97	3/21/97
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3	F	N 3/3/97	3/21/97
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618; (none)	1994-1	F	N 3/3/97	3/21/97
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not Applicable
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	P MI 043350129	N 1/21/05 MI 050250339	

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)²Rule / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)⁶
Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use-Parts 30, 32, 35	59 FR 61767; 59 FR 65243; 60 FR 322; (1/1/98)	1995-1	F	N 9/21/99	7/9/99
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2			
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	P ML043350129	Y 1/21/05 ML050250339	
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4			
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	P ML043350129	N 1/21/05 ML050250339	
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	P ML043350129	N 1/21/05 ML050250339	
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F	N 9/21/99	7/9/99
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724; (4/1/99)	1996-1	F	N 9/21/99	7/9/99
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not Required
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	F	N 9/21/99	7/9/99
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F	N 9/21/99	7/9/99
Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State-Part 150	62 FR 1662; (2/27/00)	1997-2	P ML043350129	N 1/21/05 ML050250339	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F	N 9/21/99	7/9/99
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not Required

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)²Rule / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)⁶
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28947; (6/27/00)	1997-5	F	N 9/21/99	7/9/99
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	P ML043350129	N 1/21/05 ML050250339	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F	N 9/21/99	7/9/99
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1	P ML043350129	N 1/21/05 ML050250339	
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees-Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not Required
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not Required
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	P ML043350129	N 1/21/05 ML050250339	
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393; (10/26/01)	1998-5	P ML043350129	Y 1/21/05 ML050250339	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	P ML043350129	N 1/21/05 ML050250339	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			Not Applicable
Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information-Part 31	64 FR 42269; (none)	1999-2			
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524; (2/2/03)	1999-3	P ML043350129	Y 1/21/05 ML050250339	

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)²Rule / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)⁶
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	P ML043350129	N 1/21/05 ML050250339	
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	P ML043350129	N 1/21/05 ML050250339	
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material-Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	P ML043350129	Y 1/21/05 ML050250339	
Revision of the Skin Dose Limit-Part 20	67 FR 16298; (4/5/05)	2002-1	P ML043350129	N 1/21/05 ML050250339	
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249; (4/24/05)	2002-2	P ML043350129	Y 1/21/05 ML050250339	
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327 12/3/06	2003-1			
Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments – Part 71.	69 FR 3697; (10/01/07)	2004-1			
Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	70 FR 2001; (7/11/08)	2005-1			
Medical Use of Byproduct Material - Recognition of Speciality Boards - Part 35	70 FR 16336; (4/29/08)	2005-2			
Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) ⁶	70 FR 72128; (12/1/05)	2005-3	P ML052780024	N 10/4/05 ML052780024	

1. **Or other generic Legally Binding Requirements.**
2. **(Y/N) Y means “Yes,” there are comments in the review letter that the State needs to address.
N means “No,” there are no comments in the review letter.**

3. **Not Required means these regulations are not required for purposes of compatibility.**
4. **A State need not adopt a specific regulation if the State has no licensees that would be subject to that regulation. See “Final Policy Statement on Adequacy and Compatibility of Agreement State Programs.” III.1. Time Frame for Adoption of Compatible State Regulations, p.6, SECY-95-112, May3, 1995.**
5. **ADAMS ML Number#.**
6. **By letter dated September 2, 2005, from Paul H. Lohaus, Director, Office of State and Tribal Programs, Agreement States were given 90 days to issue legally binding requirements satisfying the requirements of NRC Order EA-05-090.**