

From: "Walker, Bob (DPH)" <Bob.Walker@state.ma.us>
To: <kph@nrc.gov>
Date: 08/09/2006 10:46:38 AM
Subject: MA Draft IMPEP Report

Kevin:

In spite of my earlier letter stating that MA had no comments on the draft IMPEP report, Salifu suggested a couple of modifications that will make it more accurate. Please see attached.

Thanks,

Bob Walker

4.1 Compatibility Requirements

4.1.1 Legislation

Massachusetts became an Agreement State on March 21, 1997. The authority under which the Program administers the Agreement is in Massachusetts General Law Chapter 111H and **Chapter 111**. (The statute authorizing the Governor to enter into the Agreement is in Chapter 111H and the statute under which the Program operates is Chapter 111). The Department of Public Health is designated as the Commonwealth's radiation control agency. The review team noted that no new legislation, which would affect the Agreement State program or its authority, was passed since last review.

3.0.2 Program Elements Required for Compatibility

The Commonwealth regulations for the Program are located in Title 105 of the Code of Massachusetts Regulations Section 120, and apply to ionizing radiation, whether emitted from radionuclides or **machines**. Massachusetts requires a license for possession and use of radioactive materials, including naturally occurring and accelerator-produced radionuclides.

The review team evaluated the Program's responses to the questionnaire relative to this indicator, interviewed Program management and staff, reviewed the status of regulations required to be adopted by the Commonwealth under the Commission's adequacy and compatibility policy and verified the adoption of regulations with data obtained from STP's State Regulation Status Data Sheet.

[The review team examined the Program's rulemaking processA copy of the final promulgated regulations are then sent to the NRC for review for as final regulations]
This subsection contains irrelevant and inaccurate detail and is best left out. The process is legal as required by the Administrative Procedures Act and regulated by the Secretary of State's regulations.

The review team determined that 16 regulations have not been adopted within the 3-year time frame. The review team noted that three of the 16 overdue regulations were identified as overdue during the 2002 IMPEP review. During the 2002 IMPEP review, the Program indicated an intent to promulgate the three overdue regulations in **the next iteration of the regulation anticipated for 2003**. Program **management** indicated during this on-site review that the reasons the three overdue regulations were not promulgated in 2003 were: **(1)** the program **management** preferred to **present to Public Health Council (PHC)** a regulation package with significant changes, such as changes to 10 CFR Part 35, that had an upcoming implementation date **(2)** the program **management** preferred to **present for promulgation** a larger regulation package instead of three regulations which are otherwise provided for by other legal processes **(3) the process to put together the larger package changed the time lines.**

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