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January 6, 2012

Janine F. Katanic, Ph.D., CHP
Health Physicist
Division of Materials Safety and State Agreements
Office of Federal and State Materials
And Environmental Management Programs

RE: Draft Rhode Island IMPEP Report dated November 17, 2011

Dear Mrs. Katanic:

On behalf of the Dr. Michael Fine, Director of the Rhode Island Department of Health, I am providing comment on the draft IMPEP report referenced above.

I wish to thank you and your review team for a through and collaborative review. Staff of the radiation control program and I appreciate the opportunity to learn from both your review activities and the expertise of your team.

We find no substantive errors or disagreements with your teams observations, comments, and recommendations. That being said, I would like to mention a few specific points that, although they do not change our intention or resolve to improve our overall performance, bear documenting.

First, I believe it is important to not lose sight of the length of the review period – four years! For a small state and recognizing the unprecedented fiscal difficulties the state continues to be engulfed in, which you do acknowledge and we appreciate, the program significantly improved it's implementation of the required inspection schedule in the latter half of the period – that's performance over a two-2 year period. We believe the Department's attention to this critical detail is not an un-significant accomplishment. The RI radiation program, as you know, covers a variety of other important areas beyond materials and all in the interest of ensuring the health and safety of the public. Additionally, the Department's need to respond to public health emergencies utilizing the national incident and command system (ICS) sets priorities beyond any one program unit and can interfere with the normal workload routine, pulling staff to assist as needed, often outside their respective expertise or job function. Lastly, normal staff attrition in a small state presents an often insurmountable situation given the technical specialties of the radiation materials classifications. Section 3.3 of the report in no way sought to identify or document the "whys" of the difficulties of meeting the inspection frequencies in the first years of the review period.

The next to the last paragraph in Section 3.3, on page 7, in our estimation misrepresents or inappropriately alludes to a practice of the Rhode Island inspectors in regards to verifying licensee compliance with Increased Controls and Fingerprinting. It is the states contention that such an inference is incorrect and that in the circumstance generating this reference the licensee was cited for non-compliance. If a licensee cannot produce evidence of compliance with a condition or a credentialing requirement – they are not compliant. Subsequently, we do not agree with the wording and/or framing of that situation, however, it does not change our agreement with and plans to improve the quality of all of our inspections.

The Department concurs with a Monitoring period and welcomes the involvement, insight, and support of the NRC Regional Office. The following are tentative responses and/or action steps for each of the recommendations along with our good-faith commitment to improve the programs overall performance to the full satisfaction of the NRC:

1. The review team recommends that the State document its training and qualification program for license reviewers and inspectors, including the reimplementation, use, and update of licensing and inspection qualification cards for each staff member.

The Office of Facilities Regulations (OFR), Radiation Control Program concurs and will update the qualifications and training documents appropriately. Additionally, OFR plans to implement this documentation system as an office protocol for all employees and classifications assigned to OFR.

2. 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 IMC 2800.

The Office of Facilities Regulations (OFR) believes the Radiation Control Program for Materials is currently in full compliance with the NRC requirements and anticipates continued compliance throughout the next IMPEP review period.

3. The review team recommends that the State take measures to ensure that inspection records and narrative reports are documented in accordance with the Program's Inspection Manual.

The Office of Facilities Regulations (OFR) is implementing updates to both our inspection and enforcement procedures and will ensure inspection records and narrative reports comport with the updated procedures. Additionally, OFR is adopting and creating an office-wide protocol and procedure manual that will incorporate the radiation materials requirements as well as allow for the adoption of existing incident and event investigation protocols in the materials program.

4. The review team recommends that a Program supervisor or other appropriately qualified senior staff member accompany each inspector, at least annually, to ensure quality and consistency in the inspection program.

The Office of Facilities Regulation (OFR) will immediately begin scheduling supervisory and/or accompaniment inspections consistent with both training and on-going performance requirements.

5. The review team recommends that the State conduct initial and subsequent security related inspections in a manner that provides for verification of licensee compliance with the requirements.

The Department and the Office of Facilities Regulation understand and believe we are committed to meeting all of the requirements and criteria for ensuring Increased Control licensees are upon initial licensing and at all times fully compliant with both state and federal requirements. If there are any differences in opinion or procedure between the NRC and the OFR Radiation Control Program on how those requirements are determined and documented to be in compliance, the Department is committed to resolving those differences quickly and collaboratively with the NRC.

Thank you.


Raymond Rusin, Implementation Director for Policy and Planning

Cc: Michael Fine, MD, Director, RI Department of Health