

RHODE ISLAND DEPARTMENT OF HEALTH
 QUARTERLY MONITORING CONFERENCE CALL
 February 28, 2018

Nuclear Regulatory Commission Attendees	Rhode Island Department of Health Attendees
Monica Ford, Region I	Mary Bennett, Chief, RI Center for Facilities Regulation
James Trapp, Region I	Charma Waring, Supervisor, Radiation Control Program
Lizette Roldan-Otero, NMSS	Bill Dundulis, Risk Assessment Toxicologist
	Dennis Klaczynski, Radiological Health Specialist

BACKGROUND

During the March 2016 Integrated Materials Performance Evaluation Program (IMPEP) review of the Rhode Island Agreement State Program (the Program), the review team found the State’s performance satisfactory for four performance indicators, satisfactory, but needs improvement, for one performance indicator, and unsatisfactory for one performance indicator. One recommendation was left open from the 2011 IMPEP review. On June 16, 2016, the Management Review Board (MRB) met to consider the proposed final IMPEP report. The MRB found the Program adequate to protect public health and safety, but needs improvement, and compatible with the U.S. Nuclear Regulatory Commission’s (NRC) program. Upon its deliberations the MRB issued two additional recommendations to Rhode Island. Additionally, the MRB directed that Rhode Island continue on monitoring, that calls between the Rhode Island Department of Health (RDH) and NRC staffs be conducted quarterly, and that a periodic meeting take place approximately one year from the 2016 IMPEP review and a second periodic meeting be held approximately 18 months after the first periodic meeting. The first periodic meeting was held with Rhode Island on March 9, 2017 with the MRB held on July 20, 2017. The MRB determined that quarterly calls should continue and that the next periodic meeting and IMPEP review should be held as scheduled in September 2018 and March 2020 respectively. This is the second quarterly call since the July 20, 2017 MRB.

DISCUSSION OF PROGRAM STATUS

Ms. Waring led the discussion of the State’s status for each of the IMPEP performance indicators.

Technical Staffing and Training (2016 IMPEP finding: Satisfactory but needs improvement)

The Program consists of four technical staff positions, a Supervising Radiological Health Specialist (supervisor) position, and a licensing assistant. These positions comprise approximately 4.3 full time equivalents. The program is fully staffed, however the licensing assistant is out on medical leave and the program is utilizing temporary staff to help with filing and document processing. There is a learning curve for the temporary staff that are helping out which impacts the Program Supervisor as she has to oversee the work each new temporary staff person is doing to ensure that the filing is done correctly. The Program has paperwork going back approximately one year that needs placed in the appropriate licensee file. The Program stated that this amounts to a 2-3 day work load.

The Program has two technical staff that are working through their licensing and inspection qualifications. The Program expects that both individuals will be fully qualified by the next IMPEP review. Rhode Island has a training procedure equivalent to the NRC’s Inspection Manual Chapter

1248. Qualified staff are continuing to work on obtaining the required 24 hours of refresher training every two years. The Program Supervisor stated that each qualified inspector/ license reviewer is responsible for tracking their refresher training.

The MRB for the 2016 IMPEP review generated one recommendation for this performance indicator.

Recommendation 1: The MRB recommends that the Program management take measures to ensure proper documentation of inspection tracking dates and ensure the Program's licensing and inspection files are complete.

Status: After the 2016 IMPEP review, the program's administrative support staff started to go through the all of the program's files and color code them by inspection priority and place them in the correct order. Once the files are in order the Program will begin to review the files to ensure that each file contains the correct documents and is complete (i.e. no missing documents or parts of documents). However, as of this call the Program's licensing assistant is out on medical leave and temporary staff are being used to help with this effort. The Program stated that they are only a few days behind and are working to eliminate the filing backlog.

To ensure proper documentation of inspection tracking dates, the Program Supervisor is using a white board along with a master file on a shared drive to track upcoming inspections. Both the white board and file are updated as inspections are completed. The Program reports to the director on a weekly basis regarding the status of upcoming inspections.

Status of the Materials Inspection Program (2016 IMPEP finding: Unsatisfactory) and Technical Quality of Inspections (2016 IMPEP finding: Satisfactory)

At the time of the 2016 IMPEP review 11 of 37 Priority 1, 2, and 3 inspections had been completed overdue and no initial inspections were completed overdue. Since then, the Program has had no overdue inspections (Priority 1, 2, 3, and initial). The Program's goal is to issue all inspection correspondence within 30 days. This is usually achieved with the use of a MAT6 which is similar to the NRC's form 591. The Program continues to be attentive to reciprocity inspections and is confident that they have inspected greater than 20% of candidate licensees for reciprocity for calendar year 2016 and 2017. All supervisory accompaniments were completed for calendar years 2016 and 2017.

The 2011 IMPEP team generated one recommendation for the indicator Status of the Materials Inspection Program. This recommendation was kept open as a result of the 2016 IMPEP review.

Recommendation 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.

Status: The Program has completed all Priority 1, 2, 3, and initial inspections in accordance with the inspection priority in Inspection Manual Chapter 2800 since the last IMPEP review. The Program has a master file spreadsheet on a shared drive which tracks all of the Program's inspections. Additionally, the program supervisor is tracking upcoming inspections with the use of a white board in her office. The Program briefs upper management on the status of inspections on a weekly basis. (Note: Inspection Manual Chapter 2800 was revised in September 2017. The revisions included new criteria for the performance of Priority 1, 2, and 3 and initial inspections. Priority 1 and Priority 2 inspections may vary around their due date by +/- 50% (6 months and 1 year respectively) and Priority 3 inspections may vary around their dues date by +/- 1 year. Additionally initial inspections may be

rescheduled to within 18 months of license issuance if the licensee does not yet possess material or has not yet performed principal activities. This revised criteria will be applied to Rhode Island's next IMPEP review)

Technical Quality of Licensing (2016 IMPEP finding: Satisfactory)

The Program has approximately 42 specific licensees. The Program takes all received licensing actions and places them in a computer tracking system and assigns them a log number. This database is very generic and does not contain any security-related information.

All licensing actions are reviewed by a senior staff member before being signed by the Program Supervisor. The three licensing amendment actions with the Program are in progress and have been in house for less than a year. The program has reduced the backlog of license renewal applications and currently has only one open renewal action. This action is an outlying action that has been with the Program approximately fourteen years. The licensee associated with this action has made several major changes to its program over the years and the Program is currently waiting on additional information that it requested from the licensee before it can complete this renewal. The Program's licenses are on a 10 year renewal cycle.

The Program uses equivalent guidance to the NRC's pre-licensing guidance and to the risk significant radioactive materials checklist. The Program completes pre-licensing visits in accordance with this guidance. After the first visit to the prospective licensee the Program determines whether or not a new applicant should receive a license. Additionally, if the Program decides to issue the license, the Program performs a second visit to the new licensee to hand deliver the license and discuss the license with the licensee.

The MRB for the 2016 IMPEP review generated one recommendation for this performance indicator.

Recommendation 3: The MRB recommends that program management develop and implement an action plan to reduce the licensing renewal backlog.

Status: At the time of the 2016 IMPEP review the Program had 13 renewals needing to be completed that had been with the Program between 1 month and 14 years. Currently the Program has one renewal that needs to be completed. As mentioned above, this action is an outlier and has been with the Program for several years. The licensee has made many changes to its program over the years which has made completion of the renewal difficult. The Program completes amendments from the licensee while the renewal is in progress. The Program hopes to complete this renewal by the end of the year. The Program did not develop a specific action plan to reduce the backlog, however the Program has actively worked on renewals since the 2016 IMPEP review and has cleared up the backlog.

Technical Quality of Incidents and Allegations (2016 IMPEP finding: Satisfactory)

The Program is aware of the need to maintain an effective response to incidents and allegations. The Program uses a system called Aspen Complaints Tracking System (ACTS). Incidents are quickly reviewed for their effect on public health and safety and staff is dispatched to perform onsite investigations when necessary. The Program communicates reportable incidents to the NRC Operations Center and Region I. The Program has received no events or allegations since the 2016 IMPEP review.

Compatibility Requirements (2016 IMPEP finding: Satisfactory)

In 2016 Rhode Island enacted state statute 42-35-5 into its General Laws. Section (b) states the following:

(b) The secretary of state shall oversee the publication of an updated code of state regulations. The code of state regulations shall be compiled and published in a format and medium prescribed by the secretary of state. Upon completion of the updated code, it shall be made available on the secretary of state's website. The rules of an agency shall be published and indexed in the code of state regulations. Agencies must resubmit all existing rules with the secretary of state for publication into the code of state regulations by December 31, 2018. All rules shall be written in plain language. To promote the efficient development of a code of state regulations, the office of regulatory reform is authorized to coordinate and direct agencies in the effort to develop a regulatory code. The office of regulatory reform shall establish a phased approach which requires agencies to submit portions of regulatory content prior to December 31, 2018. Any rule that is not resubmitted by December 31, 2018, and is not published in the code of state regulations, shall not be enforceable until the rule appears in the code of state regulations. The secretary of state shall make the code of state regulations available for public inspection and, for a reasonable charge, copying.

This statute requires that the Program must recodify all of their rules into the new format as described by the "Rules and Regulations Formatting and Filing Manual" by December 31, 2018 or they will not be able to enforce against them. The Program stated that they will need to ensure that the regulations are with the Secretary of State by August 2018 in order to ensure that they are adopted in final by the deadline. Due to the new regulatory format requirements, the Program plans to adopt NRC regulations by reference. The Program is planning to promulgate adoption by reference regulations in the required format and submit those by the deadline. This could cause the Program to adopt a total of five regulation amendments overdue [one is already currently overdue, (Regulation Amendment Tracking System (RATS) ID 2013-2 due August 2016) and four coming due at various times in 2018]. However, it should make it easier for the Program to ensure timely adoption of regulations in the future. In most cases, they will just need to change the date of the Code of Federal Regulations they are adopting against in their regulations. The Program submitted draft regulations for the NRC's review at the end of February 2018.

The Program's regulations are subject to sunset requirements. The Program must refile their regulations every five years. The Program completed this refiling in January 2017. The next refiling is scheduled for 2022.

Conclusion

The Program is working on taking actions on the recommendations that were made during the 2016 IMPEP review. The Program is fully staffed and is working on qualifying the newly hired staff. The Program has made inspection timeliness a priority and has completed all but one of the outstanding licensing renewals. The Program has one regulation amendment overdue for adoption and will address this as part of a major overhaul of its regulations to change to adoption by reference. This effort will be completed by the end of calendar year 2018.

Next Quarterly Call: May/June 2018