

RHODE ISLAND DEPARTMENT OF HEALTH
 QUARTERLY MONITORING CONFERENCE CALL
 May 26, 2020

Nuclear Regulatory Commission Attendees	Rhode Island Department of Health Attendees
Monica Ford, Region I	Jennifer Olsen-Armstrong, Chief, Center for Health Facilities Regulation
Joseph Nick, Region I	Joseph Catalano, Chief of Management Services
Randy Erickson, Region IV	Bill Dundulis, Risk Assessment Toxicologist
Farrah Gaskins, Region I	
Lizette Roldan-Otero, NMSS	

BACKGROUND

The Rhode Island Agreement State Program (the Program) has experienced challenges maintaining an adequate and compatible program since 2011. In 2011, based on findings presented by the IMPEP team, a Management Review Board (MRB) found Rhode Island adequate to protect public health and safety, but needs improvement and compatible with the U.S. Nuclear Regulatory Commission’s (NRC) program and subsequently placed the Program on Monitoring. In 2016, as a result of the IMPEP team’s findings, the MRB again found the Program adequate to protect public health and safety, but needs improvement, and compatible with the NRC’s program. Additionally, the MRB directed that Rhode Island continue on Monitoring, that quarterly calls between the Rhode Island Department of Health and NRC staffs be conducted, and that two periodic meetings take place one at approximately 12 months and the other at approximately 30 months from the date of the 2016 IMPEP review. The first periodic meeting was held with the Program on March 9, 2017 (ML17095A297) and the second periodic meeting was held on September 17, 2018 (ML18291A582). An MRB held after the second periodic meeting discussed whether or not the Program should be removed from Monitoring based on corrective actions taken and improved program performance. However, since a sustained period of performance had not yet been demonstrated by the Program the MRB ultimately decided that the Program should continue on Monitoring and that the next IMPEP review should be held as scheduled in fiscal year 2020.

DISCUSSION OF PROGRAM STATUS

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

The Program is composed of four technical staff members, a program supervisor, and a chief (who is the Program’s Radiation Control Program Director (RCPD)). The total effort allocated to support the Program is approximately 1.42 full-time equivalents (FTE). Since the 2016 IMPEP review the Program has lost one technical staff member (January 2017), the program supervisor (March 2019) and the chief (March 2019). The positions were filled in April 2017, September 2019 and July 2019 respectively. In March of 2020 the program supervisor position became vacant again when the individual occupying the position left to take a job in another State. Due to the COVID-19 Pandemic, which started to escalate around the time of the program supervisor’s departure, the Program has been unable to post the position and does not know when they will be able to work on filling the position.

The Program has a training and qualification manual compatible with the NRC’s Inspection Manual Chapter (IMC) 1248. Staff going through the qualification process have been assigned a training and qualification journal to complete. One technical staff person is currently working on becoming a

qualified license reviewer (this individual is already a qualified inspector). The Program stated that technical staff are completing refresher training; however, it is not being officially tracked. The Program is working on a method to document each individual's refresher training and ensure that all qualified staff are meeting the 24 hours every 24 months requirement.

The 2016 MRB generated one recommendation for this performance indicator. The recommendation and its status are listed below.

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

Status: To address the first part of the recommendation, the program supervisor in place at the time of the 2016 IMPEP review placed a white board in their office and populated it with information pertaining to all of the Program's Priority 1, 2, and 3 licensees (which are separated by Priority and color coded). This could be accomplished since there are approximately 20 Priority 1, 2, and 3 licensees regulated by the Program. The white board shows the last inspection completed and the next inspection due as well as the expiration date of the license. This keeps the information prominently displayed and can be easily consulted should a question about inspection due dates arise. The Program solely used this system through the end of calendar year 2019. During the February 2020 call, the Program stated that all of the information contained on the white board had been moved to the tracking system that is already in use by the Rhode Island Centers for Medicare and Medicaid Services (CMS). The Program stated that this effort is still a work in progress and that although the data has been populated it still needs to be reviewed. In the meantime, the Program is still maintaining the "white board" in the supervisor's office and also maintains an excel spreadsheet on a shared drive to track inspections.

To address the second part of the recommendation, the Program originally trained two administrative support staff to support filing efforts and ensure the licensing and inspection files were complete. At the time of the January 2019 call, these staff worked with the Program for approximately one hour each day. Additional time was approved as needed including time working on Saturdays. During the June 2019 call the Program stated that they mainly rely on one administrative assistant who dedicates about .5 FTE of their time to the Program. The Program stated that this is an appropriate amount of support and that licensing and inspection filing is being completed. There have been no changes in regard to efforts associated with the second part of the recommendation since the June 2019 quarterly call.

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

During the 2016 IMPEP review, the team determined that 11 of 41 Priority 1, 2, 3, and initial inspections had been completed overdue resulting in 27 percent of inspections being completed overdue. The Program has since made inspections a focus area and has completed all Priority 1, 2, and 3 inspections in accordance with their assigned inspection frequencies. As of this call no inspections have been affected by restrictions put in place due to COVID-19.

Two new licenses have been issued since the last IMPEP review. The Program stated that one of the initial licensees has not possessed material since the license was issued over two years ago. The Program has visited the licensee several times and is working with the licensee to understand when operations may begin. The Program is aware of the regulation that states that a licensee will begin decommissioning if no work occurs within 24 months (RI equivalent to 10 CFR 30.36(d)) and is taking this into consideration going forward. (No change from October 2019 call.

The Program has continued to be attentive to reciprocity inspections. Staff completed two inspections of five candidate licensees in calendar year 2016 (40%); two inspections of six candidate licensees in calendar year 2017 (33%); and three inspections of four candidate licensees in calendar year 2018 (75%). The Program did not have the exact percentage of reciprocity inspections completed for 2019, however it was confident that it met the goal of inspecting greater than 20% of candidate licensees. Supervisory accompaniments of all qualified inspection staff were completed in calendar years 2016, 2017, 2018, and 2019. A discussion on the revisions to IMC 2800 occurred during the call. The Program was made aware of the changes to reciprocity inspections and how those would impact the Program. The Program staff stated that they would look at the revisions to the IMC and make changes to their reciprocity inspection process as appropriate. Lastly, the Program stated that most inspection findings were being issued within 30 days of the inspection exit.

The 2016 IMPEP team kept open one recommendation from the 2011 IMPEP review for the performance indicator Status of Materials Inspection Program. The recommendation along with its status are listed below.

Recommendation 2: The 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: Since the 2016 IMPEP review, the Program has made inspections a focus area. All Priority 1, 2, and 3 inspections have been completed in accordance with the assigned inspection Priority listed in the NRC's IMC 2800. Two new licenses requiring an initial inspection were issued since the 2016 IMPEP review. Staff has completed one initial inspection but for this licensee, since no material is present, will need to continue to do a follow-up initial inspection within 12 months. The second new license was issued during the summer of 2019 and the initial inspection is being planned (not to exceed 12 months from the date of license issuance). This licensee is an out-of-state industrial radiography licensee and has not performed work in Rhode Island since obtaining a specific license.

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 received are worked on by qualified staff. Once the work on each incoming action is complete, the action undergoes a concurrence review by a senior staffer. Normally licenses are signed by either the program supervisor or chief, however due to turnover in these two positions, senior staff have also been signing the licenses. All renewals are current and there is no backlog of renewal actions. At the time of this call one renewal action was in house and was actively being worked on. All other licensing actions that have been received (amendments, initials, terminations) have been completed. Licenses are on a 10 year renewal cycle. Staff is aware of the continuing revisions to the NRC's NUREG 1556 series and plans to update licensing guidance as appropriate. The one exception is NUREG 1556 Volume 9. The Program stated that it would need to wait for its regulations to be updated before it could implement changes to its equivalent guidance.

The MRB for the 2016 IMPEP review generated one recommendation for this performance indicator. The recommendation along with its status are as follows.

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

Status: The Program's management and staff worked together to complete the backlogged renewals. The Program is aware of the need to complete renewals in a timely manner and will ensure timely completion of renewal actions received going forward. There is no backlog of renewal applications at this time. The Program has one renewal in house that it is currently working.

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's Headquarters' Operations Center and Region I. The Program has received one reportable event since the 2016 IMPEP review. This event involved a Gammaknife and met the criteria to be considered an abnormal occurrence.

The Program stated that a formal procedure for incident and allegation response does not exist. The NRC's Office of Nuclear Material Safety and Safeguards State Agreements procedure SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements," lists procedures that pertain to response to events and allegations as a compatibility category C. Compatibility category C means "a program element, the essential objectives of which should be adopted by the State to avoid conflicts, duplications or gaps. The manner in which the essential objectives are addressed need not be the same as NRC, provided the essential objectives are met." The Program stated that they would ensure procedures were in place to meet this requirement. Additionally, at the time of the June 2019 call, the Program was provided with a copy of the Allegations procedure used by the NRC's Headquarters Operations Officers to use as a template. (No change since October 2019 call)

Compatibility Requirements (2016 IMPEP finding: Satisfactory)

In 2016 Rhode Island enacted state statute 42-35-5 into its General Laws. This statute required the Program to recodify all of its rules into a new format as described by the "Rules and Regulations Formatting and Filing Manual" by no later than December 31, 2018 or it would not be able to enforce against them. The Program stated that it met the timeline and its amended regulations went into effect on January 1, 2019. The NRC comments on the final regulations will be addressed by the Program along with changes associated with Regulations Amendment Tracking Sheet IDs 2018-1 and 2018-2 later this year. The Program stated that was hopeful all comments would be addressed and finalized before the end of calendar year 2020, however given priorities associated with COVID-19 the potential exists that final adoption could be delayed until 2021.

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

Conclusion

The Program continues to improve and has acted on the recommendations that were made during the 2016 IMPEP review. The Program has one vacancy, which is the program supervisor. The Program

has made inspection timeliness a priority and has performed no inspections overdue since the last IMPEP review. Additionally, the Program completed all of its backlogged licensing renewals that were discussed in the recommendation from the 2016 IMPEP review, had one license renewal in house which is in progress, and had no licensing backlog at the time of this call.

Next Quarterly Call: August 2020 (tent.)

Next IMPEP: Rhode Island's next IMPEP review was originally scheduled for July 13-16, 2020. However, due to restrictions put in place in relation to the COVID-19 pandemic, the inspector accompaniments scheduled for June 2020 are not able to be accomplished. Therefore, the Office of Nuclear Materials Safety and Safeguards management decided that the IMPEP review should be rescheduled. IMPEP project management rescheduled the review for December 2020. The NRC and the program staff will work together to pick specific dates for the review in the near future.