

RHODE ISLAND DEPARTMENT OF HEALTH
 QUARTERLY MONITORING CONFERENCE CALL
 August 25, 2021

Nuclear Regulatory Commission Attendees	Rhode Island Department of Health Attendees
Farrah Gaskins, RSAO, Region I	Jennifer Olsen, Chief, Center for Health Facilities Regulation
Blake Welling, Director DRSS, Region I	Alex Hamm, Supervisor, Radiation Control Program
Robert Johnson, IMPEP Project Manager NMSS	Dennis Klaczynski, Sr. Radiological Health Specialist
Duncan White, Senior Health Physicist, NMSS	Thomas Caruolo, Radiological Health Specialist
	Maria Barnes, Radiological Health Specialist
	Bill Dundulis, Risk Assessment Toxicologist

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 Integrated Materials Performance Evaluation Program (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 the Program continue to be 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. While the MRB agreed that the Program had improved, since a sustained period of improved performance had not yet been demonstrated, 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.

[Note: Due to the COVID-19 Public Health Emergency (PHE) the IMPEP review previously scheduled for July 2020 has been rescheduled to be conducted October 18-22, 2021.]

DISCUSSION OF PROGRAM STATUS

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

The Program is comprised 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). In March of 2020 the program supervisor who started in September 2019, left to take a job in another State. Due to the COVID-19 PHE, the Program was unable to post the position until October 2020. The position was filled, and an individual

started on January 4, 2021. This individual departed from the Program on January 8, 2021. The position was reposted and subsequently filled on April 12, 2021. At the time of this call the Program is fully staffed.

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. Only one technical staff is still in the qualification process and they are almost complete (only need the HP in-person lab and root cause courses). The newly hired program supervisor plans to work on qualifications as well as time allows. The Program does not have a formal method to document each individual's refresher training and ensure that all qualified staff are meeting the 24 hours every 24 months requirement. The plan is to have the program supervisor track this training going forward.

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. The review of this information has taken longer than expected due to the COVID-19 PHE. Until the work is completed, the Program continues to use the "white board" in the supervisor's office and while also maintaining 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 to the efforts to address this recommendation since the May 2020 quarterly Monitoring 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 but one Priority 1, 2, and 3 inspections in accordance with their assigned inspection frequencies. The overdue inspection was a Priority 3 inspection that's due date and overdue date fell during the COVID-19 PHE. This inspection was completed approximately 1 month overdue. No inspections were overdue as of this call.

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 last onsite visit was in December 2020. The Program is aware of the regulation that states that a licensee will begin decommissioning if no work occurs within 24 months (Rhode Island equivalent to 10 CFR 30.36(d)) and is taking this into consideration going forward. However, the licensee maintains that it is worth paying the fee to keep the license active so that once approval is given, work can be started immediately. The Program will continue to be in communication with this licensee until it is able to accomplish an initial inspection.

All but one supervisory accompaniment was completed of qualified inspectors in calendar year 2020. The reason the one accompaniment did not occur was due to the other senior inspector being out on unexpected medical leave and the Program not having a supervisor during most of the year. At the time of the call, supervisory accompaniments for all staff were performed for 2021. 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 but one 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; however since no material is present, the Program 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 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 staff member. 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. Licenses are on a 10-year renewal cycle.

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 currently.

Technical Quality of Incident and Allegation Activities (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 as appropriate. The Program has received two reportable events since the 2016 IMPEP review. One of the events involved a Gammaknife and met the criteria to be considered an abnormal occurrence. One allegation has been received since the previous review. This was an NRC transferred allegation.

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." 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. The Program has completed a draft procedure and it is currently with legal staff for review. [No changes other than the receipt of a second event have occurred since the October 2020 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. The Program had hoped the comments would be addressed and finalized before the end of calendar year 2020, however it had to wait to receive the approval to be able to move forward regulations that were not related to COVID-19. As of this call, the Program had still not received the approval.

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. Program staff stated that this refiling may be delayed due to impacts from the COVID-19 PHE.

IMPEP

Inspector accompaniments were accomplished on April 27, 28, and 29, 2021. The IMPEP has been scheduled for October 2021. The Program Manager discussed concerns with ongoing restriction of the PHE and having a team perform the IMPEP onsite. Details on how a virtual IMPEP review would work were provided to the Program. A list of the necessary information needed in order to complete the IMPEP review was provided to the program supervisor after the call. The Program needs to evaluate this information and determine whether or not they wish to pursue a virtual IMPEP review.

Conclusion

The Program continues to improve and has acted on the recommendations that were made during the 2016 IMPEP review. The Program filled the supervisory position on April 12, 2021 and is fully staffed. The Program has made inspection timeliness a priority. One inspection was performed overdue since the last IMPEP review. This inspection's overdue date fell within the Program's COVID-19 PHE window. Additionally, the Program completed all of its backlogged licensing renewals that were discussed in the recommendation from the 2016 IMPEP review and has no licensing backlog at this time. Changes to regulations are on hold since they are not related to COVID-19. The program plans to move them forward as soon as permission is granted.

Next Quarterly Call:

This was the final quarterly call before the IMPEP review which is scheduled for October 18-22, 2021.