

RHODE ISLAND DEPARTMENT OF HEALTH
 HEIGHTENED OVERSIGHT CONFERENCE CALL
 August 23, 2023

Nuclear Regulatory Commission Attendees	Rhode Island Department of Health Attendees
Monica Ford, RSAO, Region I	Alex Hamm, Supervising Radiological Health Specialist
Kathy Modes, NMSS	Tom Caruolo, Radiological Health Specialist
Sherrie Flaherty, NMSS	Dennis Klaczynski, Radiological Health Specialist
Lee Smith, NMSS	
Adelaide Giantelli, 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 Integrated Materials Performance Evaluation Program (IMPEP) team, the 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. As a result, the Program on was placed on Monitoring. In 2016, based on the IMPEP review 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. In January 2022¹, as a result of the IMPEP team’s findings, the MRB found the Program adequate to protect public health and safety but needs improvement and compatible with the NRC’s program. The Program experienced challenges in maintaining a first line supervisor throughout the IMPEP review period and had continued performance concerns in the area of Technical Quality of Licensing Actions. Therefore, the MRB determined that the Program should be placed on Heightened Oversight, a periodic meeting should occur in one year, and the next full IMPEP review should take place in two years.

Heightened Oversight is a formalized process that allows the NRC to maintain an increased level of communication with an Agreement State. As part of the Heightened Oversight process, a Program should submit a Performance Improvement Plan (PIP) to address any areas of downgraded program performance and bimonthly calls between the Program and the NRC should commence.

1) Due to the COVID-19 pandemic, the IMPEP review previously scheduled for July 2020 was delayed. It was subsequently rescheduled and was conducted in October 2021.

October 2021 IMPEP Review Findings:

Rhode Island's performance was found satisfactory for the performance indicators:

- Status of Materials Inspection Program
- Technical Quality of Inspections
- Technical Quality of Incident and Allegation Activities
- Legislation, Regulations, and Other Program Elements.

Rhode Island's performance was found satisfactory but needs improvement for the performance indicator:

- Technical Staffing and Training.

Rhode Island's performance was found unsatisfactory for the performance indicator:

- Technical Quality of Licensing Actions.

The MRB Chair determined that two of the three previous recommendations are closed, and the recommendation related to accessibility of licensing and inspection documentation would remain open with the following modification:

- Rhode Island management take measures to ensure licensing and inspection documentation is complete and stored in a centralized filing system.

The MRB Chair further determined that there should be three new recommendations for improved program performance.

- Implement the Pre-Licensing guidance (and any updates, as necessary) and provide training to ensure staff understands how to properly identify unknown applicants and transfer of control requests, and how to document the basis for the known entity determination.
- Implement the Risk Significant Radioactive Materials (RSRM) checklist (and any updates, as necessary) and provide additional training to ensure staff understand when to use the checklist.
- Implement a financial assurance program consistent with State regulations; that licenses that authorize possession of radioactive material in excess of quantities requiring financial assurance post financial assurance; and, that financial assurance license conditions be consistent with possession limits authorized on the license.

The team determined that the declining performance from the 2016 IMPEP review was mainly due to: (1) significant management turnover, (2) inconsistent management oversight of programmatic activities primarily involving licensing actions, and (3) incomplete licensing and inspection documentation.

Current Rhode Island PIP: [ML23237A278](#) (updated August 23, 2023)

Recommendation 1

- Rhode Island management take measures to ensure licensing and inspection documentation is complete and stored in a centralized filing system.

To address this recommendation, the Program initially defined four tasks with six associated milestones. All six milestones were completed by March 2023. Following the completion of these tasks and milestones, the Program added two additional tasks with three associated milestones to further achieve a centralized and complete storage system. An audit was performed of all licensing and inspection files added to the centralized filing system. This audit was completed in February 2023. The Program identified 32 documents that were referenced on licenses missing from its electronic database. The Program has found all 32 documents and added them to the centralized filing system. Additionally, the Program is including the last two inspection reports for each licensee in the centralized filing system. Work to ensure the inspection files are complete has been started and the Program hopes to complete the effort by September 30, 2023.

Recommendation 2

- Implement the Pre-Licensing guidance (and any updates, as necessary) and provide training to ensure staff understands how to properly identify unknown applicants and transfer of control requests, and how to document the basis for the known entity determination.

The Program identified three tasks, each of which has an associated milestone, to address this recommendation. All tasks have been completed. The Program received a new portable gauge application which allowed them to practice using the Pre-Licensing guidance. The action was completed by the principal reviewer for that action. A secondary review of the action was completed by the Program Supervisor. Although all tasks associated with this recommendation are complete, ensuring proper use of the Pre-Licensing guidance will be an ongoing effort. (No change since the March 2023 call.)

Recommendation 3

- Implement the RSRM checklist (and any updates, as necessary) and provide additional training to ensure staff understand when to use the checklist.

This recommendation is being handled like recommendation 2 with three identified tasks, each with an associated milestone. All tasks have been completed. The Program received a new portable gauge application which allowed them to practice using the RSRM checklist. The action was completed by the principal reviewer for that action. A secondary review of the action was completed by the Program Supervisor. Although all tasks associated with this recommendation are complete, ensuring proper use of the RSRM checklist will be an ongoing effort. (No change since the March 2023 call.)

Recommendation 4

- Implement a financial assurance program consistent with State regulations; that licenses that authorize possession of radioactive material in excess of quantities requiring

financial assurance provide financial assurance; and, that financial assurance license conditions be consistent with possession limits authorized on the license.

The Program identified three tasks with eleven associated milestones to address this recommendation. Since the 2021 IMPEP review, the Program has contacted all licensees who were authorized to possess quantities of material requiring financial assurance. Two licensees chose to maintain a license that authorizes possession of material in quantities requiring financial assurance. All other licenses were amended to lower the licensee's possession limits to below amounts that require financial assurance. The appropriate financial assurance documentation was collected from both licensees and is being stored in a secure location. The Program has developed a process to review licenses to determine if financial assurance is required based on amounts authorized to be possessed on a license. All tasks and milestones have been completed associated with this recommendation. (No change since the March 2023 call.)

Performance Concern 1 (Technical Staffing and Training)

- Develop a balance in the staffing of licensing and inspection programs.

The Program identified three tasks with eight associated milestones related to this item. All tasks and milestones have been completed. The Program consists of four technical staff. At the time of the 2021 IMPEP review, of the four technical staff, only one was a qualified license reviewer. Since the 2021 IMPEP review, the Program has worked to qualify additional license reviewers. Currently three of the four staff are fully qualified as both license reviewers and inspectors and one staff is a fully qualified inspector only. In addition to the technical staff, the Program Supervisor is working on becoming qualified to review licensing actions. In order to help with knowledge transfer and ensure consistency, the Program has implemented a peer review process for licensing actions. (No change since the March 2023 call.)

Other IMPEP Related Items Discussed.

A brief discussion was had related to all common and applicable non-common performance indicators falling under the IMPEP process. No major concerns were identified during the discussion. The Program has received approval to add an additional FTE to the Radiation Program. The Program estimates that about 0.3 FTE of the hired individuals work will be dedicated to radioactive materials, however this could change depending on the experience of the individual hired and the needs of the program. The Program manager hopes to start interviews for the position in the next few weeks. The Program confirmed that refresher training for all qualified staff was being maintained. No inspections have been completed overdue during this review period. The Program is using a risk-informed process for completing reciprocity inspections. The Program has not received any incidents or allegations since the 2021 IMPEP review. Lastly, the Program adopts the NRC's regulations by reference, and all regulations are up to date. The Program is on track for its upcoming IMPEP review (October 2023).

Summary

The Program has addressed all the recommendations and performance concerns associated with the 2021 IMPEP review. The initial PIP was submitted to the NRC for Approval in February 2022 ([ML22101A122](#)). Official approval was given by letter dated May 10, 2022 ([ML22126A047](#)). No action items or concerns were identified as a result of this call. The Program should update the PIP as appropriate with any additional items it wishes to track and resubmit it prior to the next heightened oversight call.

IMPEP Review: October 16-19, 2023.