



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION I
2100 RENAISSANCE BLVD., SUITE 100
KING OF PRUSSIA, PA 19406-2713

July 1, 2014

Sheila Pinette, D.O., Director
Maine Center for Disease Control
and Prevention
286 Water Street
11 State House Station
Augusta, ME 04333-0011

Dear Dr. Pinette:

A periodic meeting with your staff was held on June 3, 2014. The purpose of this meeting was to review and discuss the status of the Maine Agreement State Program. The U.S. Nuclear Regulatory Commission (NRC) was represented by James Clifford, Joe O'Hara, and me.

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions. A Management Review Board (MRB) meeting to discuss the outcome of the periodic meeting has been scheduled for September 23, 2014 at 1:00pm. Call in information for the MRB will be provided in a separate transmission.

If you feel that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (610) 337-5214 or via e-mail at Monica.Ford@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Monica Lynn Ford
Regional State Agreements Officer
Division of Nuclear Materials Safety
U.S. NRC Region I

Enclosure:
Periodic Meeting Summary for Maine

cc w/encl.: Jay Hyland, Manager
Maine Radiation Control Program

July 1, 2014

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SUNSI Review Complete: MLF (Reviewer's Initials)

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
MAINE DIVISION OF ENVIRONMENTAL HEALTH
RADIATION CONTROL PROGRAM

DATE OF MEETING: June 3, 2014

Nuclear Regulatory Commission (NRC) Attendees	Maine Division of Environmental Health Attendees
Monica Ford, RSAO, Region I	Jay Hyland, Manager
James Clifford, Division Director, Region I	Jean Geslin, Radioactive Materials Inspector
Joe O'Hara, Project Manager, Office of Federal and State Materials and Environmental Management Programs (FSME)	Tom Hillman, Radioactive Materials Inspector

DISCUSSION:

During the May 2011 Integrated Materials Performance Evaluation Program (IMPEP) review of the Maine Agreement State Program (the Program), the review team found the State's performance satisfactory for all performance indicators reviewed. The review team made three recommendations. On July 21, 2011, the Management Review Board (MRB) met to consider the proposed final IMPEP report on the Program. The MRB determined that Maine's performance for the indicator Technical Staffing and Training was satisfactory but needs improvement and all other indicators were found to be satisfactory. The MRB found the Program adequate to protect public health and safety and compatible with the NRC's program. Based on the results of the IMPEP review, the review team recommended, and the MRB agreed, that the next full IMPEP review take place in four years and that a periodic meeting be held in approximately two years.

A periodic meeting was held with the Program on June 4, 2013. Subsequent to the periodic meeting the MRB met on July 9, 2013 to consider the findings of the periodic meeting. The MRB directed that the Program be placed on monitoring, that the Program submit a program improvement plan (PIP), that quarterly calls be conducted between the NRC and the Program, that a periodic meeting be held in one year, and that the IMPEP be conducted as scheduled in fiscal year 2015. The Program submitted a PIP on October 28, 2013 (ML13302C098) and submitted an updated PIP on February 20, 2014 (ML14051A451).

TOPICS COVERED DURING THE MEETING INCLUDED:

Program Strengths

The Program noted two strengths. The Program is fully staffed with two fully qualified inspectors. The Program's staff has extensive knowledge in radiation protection.

Program Weaknesses

The program manager stated that the Program's weakness is a law that was passed in 2009 which became effective March 1, 2014. This law required properties that were leased for more than 100 days to be tested for radon. The amount of work brought on by this law is prohibiting the Program from cross training another employee, who is currently in the radon program, to help with licensing and inspection activities.

Feedback on the NRC's Program

The Program commented that both the overall relationship and communications with the NRC are good. The Program also expressed its appreciation for the NRC training classes. Last, the program manager discussed Maine's appreciation for the IMPEP process.

Agreement State Program Staffing and Training

At the time of the June 2013 periodic meeting the Program had one staff vacancy. Since that periodic meeting the vacancy has been eliminated from the Program's staffing plan. The Program currently consists of two technical staff positions and a program manager and is considered fully staffed with approximately 2.4 full time equivalents (FTE). The program manager and both technical staff are fully qualified license reviewers and inspectors.

Support for staff training exists in the Program. Maine has been utilizing NRC's training courses to support the qualifications of the technical staff. One of the inspectors has also accompanied a New Hampshire inspector to gain additional inspection experience.

The 2011 IMPEP had one recommendation in this indicator. The recommendation and status are below.

Recommendation 1: The review team recommends that the State develop and implement a strategy to address current and future staffing vacancies in order to maintain the effectiveness and efficiency of the Program.

Status: During the June 2013 periodic meeting, the program manager stated that in order to address the recommendation, the Program's original plan was to move the staff member over from the State's low level radioactive waste program to the radioactive materials program when the individual returned from military duty in order to try and address this recommendation. This staff member was moved to the program in September 2011. The program manager stated that by doing this, the hope was to increase the Program's FTE from 2.4 to 3.2 when the vacant staff position left unfilled by the hiring freeze was finally able to be filled. The Program was able to fill that vacant position in June 2012 and increase the Program's FTE to 3.2. However, the unexpected departure of a staff member in September 2012 has caused the Program to return to 2.4 FTE. The vacant position created by the September 2012 retirement has since been removed from the Program's staffing plan and the Program is considered fully staffed with approximately 2.4 FTE. Per the Program's PIP the goal is to maintain two inspectors to support the program. The Program has also created a staff development plan to cross train additional radiation control program staff to help support licensing and inspection activities in the Program

and hopes to send one of the staff to the inspection procedures course scheduled for October 2014. This will help the Program in their cross training efforts.

Organization

The Program is located in the Radiation Control Program which is located in the Division of Environmental Health in the Center for Disease Control and Prevention under the Department for Health and Human Services.

Program Budget/Funding

The Program is 100 percent fee funded. Maine increased its fees in 2010 and now charges 50 percent of NRC fees from 2009. This increase was put into place to help pay off a deficit that occurred in the Program. The deficit has since been resolved and the Program's budget is currently in the positive. The funds are placed into a dedicated fund for the Radioactive Materials Program. Although the money is placed into a dedicated fund money can be taken out of the fund by one of three ways: 1) stacap, which is a 3.45% tax that is assessed monthly on the account and goes into the general fund, 2) dicap, which allows the Maine Department of Health and Human Services to take money out of the account every month based on FTE, it amounts to approximately \$8,000.00 per FTE per year, and 3) a change in legislation, which is rare.

Licensing and Inspection Programs

The Program currently has approximately 110 specific licenses. The Program completed 50 licensing actions in calendar year 2013 and so far has completed 45 licensing actions in calendar year 2014. The increase in licensing action for calendar year 2014 is due to an increase of license renewals coming due this year. The technical staff has signature authority for all types of licensing actions. All completed licensing actions undergo a peer or managerial review before being signed and issued. The Program currently has a backlog of six licensing actions. The longest action, which is a renewal, has been with the Program since February 2014.

All of the Program's inspection frequencies are performed at the same frequency as the NRC's. The Program's licensees are composed largely of Priority 5 licensees and less than half of the licensees fall into the Priority 1, 2, and 3 categories.

During the June 2013 periodic meeting the Program reported that it had 14 overdue Priority 1, 2, and 3 inspections by more than 25 percent of the inspection frequency since the last IMPEP review. The program manager stated that it was decided that the Program would take a hit in the area of overdue inspections in order to allow the two technical staff to become fully qualified inspectors. At the time of this periodic meeting both technical staff are fully qualified inspectors and the Program has no inspections overdue by more than 25 percent of their assigned inspection frequency. The Program has not had any initial inspections since the last periodic meeting since no new licenses have been issued.

In calendar year 2014 the Program has received 10 reciprocity requests, of which, eight have actually come in to the State to perform work. The Program has completed inspections on two of the eight reciprocity licensees.

The 2011 IMPEP review generated one recommendation in this indicator. The recommendation and its status are below.

Recommendation 2: The review team recommends that annual supervisor accompaniments be performed for each radioactive materials staff member to ensure quality and consistency within the program.

Status: The program manager stated and recorded on the PIP that both annual supervisory accompaniments for calendar year 2013 had been completed. The program manager also stated that he has already completed one supervisory accompaniment for 2014. The other supervisory accompaniment is expected to be completed by the end of July 2014.

Regulations and Legislative Changes

The Program is designated as the State's radiation control agency. No legislation affecting the Program was passed since the last IMPEP review and the Program is not subject to sunset requirements.

The Maine Regulations for Control of Radiation, found in Maine Administrative Rules 10-144A CMR 220, apply to all ionizing radiation. Maine requires a license for possession and use of all radioactive material, including naturally occurring materials, and accelerator produced radionuclides. Maine also requires registration of all equipment designed to produce X-rays or other ionizing radiation.

At the time of the periodic meeting, there were no NRC amendments overdue for adoption. However, it was noted by the May 2011 IMPEP review team that the final published rules submitted for NRC review in March 2010 generated 22 NRC comments. The review team made a recommendation based on this finding. The recommendation and its status are listed below.

Recommendation 3: The review team recommends that the State expedite action to address the comments identified in NRC letters dated August 31, 2006, and June 18, 2010, to promulgate and complete changes to the State regulations.

Status: The Program manager stated that the comments made by the NRC in its letters dated August 31, 2006 and June 18, 2010 have been addressed in a draft rulemaking. The Program is in the process of seeking approval from the Governor's office to start rulemaking proceedings. Once approval is received, there is a 150 day window for the Program to solicit for and address public comments. The Program plans to allow for a 30 day public comment period. The Program will also send the rules to NRC for review. The Program hopes to have the rules through final adoption by the end of calendar year 2014. Once these rules become final the Program will start working on a time frame to adopt other regulatory changes required for compatibility.

Event Reporting

The Program has had two reportable events and several non-reportable events since the 2011 IMPEP review. Both reportable events have been reported to the NRC accordingly. The Program stated that all staff is aware of event reporting criteria.

Response to Incidents and Allegations

The Program is aware of the need to maintain an effective response to incidents and allegations. When notified of an incident, the radioactive materials staff in the Program will be assigned to investigate and document the incident and determine if the event requires a call to the NRC Headquarters Operations Center. The inspector is responsible for recording the event in the Nuclear Materials Events Database (NMED) local incident database and transferring updates to the NRC's contractor responsible for maintaining NMED.

Since the last IMPEP review, the Program has received no allegations. The Program stated that when they do receive an allegation they are able to protect the alleged's identity. When asked if there was a procedure available for handling of allegations, the program manager stated that the procedure had not been looked at since the last IMPEP review and would work on updating it before the IMPEP review scheduled in June 2015.

Sealed Source and Device Evaluation (SS&D)

At the time of the May 2011 IMPEP review, no SS&D certificates had been issued by the Program and there were no manufacturers of SS&Ds in the State. Accordingly, the IMPEP team did not review this indicator. During the June 2013 periodic meeting the program manger stated that a manufacturer and distributor (M&D) had located itself in Maine and had submitted an SS&D sheet for approval to the Program on May 31, 2013. The program manager stated that the New England States have signed the New England Radiological Health Compact so the Program is able to utilize expertise in another State to help perform the SS&D review and approval. The Program used experienced staff in Massachusetts to perform the SS&D review. The Program issued the completed SS&D registration sheet in November 2013. The Program plans to work on qualifying technical staff as time allows so that they will be able to perform SS&D reviews in the future.

CONCLUSIONS:

The Maine Agreement State Program has shown improved performance since the June 2013 periodic meeting. Since the last IMPEP two new technical staff members have joined the Program and both are now fully qualified license reviewers and inspectors. The Program has no inspections of priority 1, 2, and 3 overdue by more than 25 percent of their inspection due date. Additionally, the Program has a minimal licensing backlog and has no regulations overdue for adoption. The Program has taken the feedback received at the June 2013 periodic meeting and has successfully corrected the issues that were found at that time. Based on the above, NRC staff recommends that the Maine Agreement State Program be removed from monitoring and that the next IMPEP review of the Maine Agreement State Program be conducted as scheduled in June 2015.