



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

August 31, 2021

Michael Abbott, Director
Division of Environmental and Community Health
286 Water Street, 11 SHS
Augusta, ME 04333-0011

Dear Mr. Abbott:

A periodic meeting with you and your staff was held on July 19, 2021. 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 Blake Welling, Director, Division of Radiological Safety and Security, NRC Region I and me.

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions. 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,

Monica Lynn Ford

Monica Lynn Ford
Regional State Agreements Officer
Division of Radiological Safety and Security
U.S. NRC Region I

Enclosure:
Periodic Meeting Summary for Maine

Distribution:

- R. Johnson, NMSS
- K. Williams, NMSS
- T. Clark, NMSS
- R. Raphael, NMSS
- B. Anderson, NMSS
- D. White, NMSS
- T. Bloomer, RI
- B. Welling, RI
- M. Ford, RI
- F. Gaskins, RI

SUNSI Review Complete: MLF (Reviewer's Initials)

S:\State Agreement Files\Maine\07-19-21 Periodic meeting summary with Letter.docx

After declaring this document "An Official Agency Record" it will be released to the Public.

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure

"E" = Copy with attachment/enclosure "N" = No copy

OFFICE	DNMS/RI	E	DNMS/RI				
NAME	MFord/mlf		TBloomer/teb				
DATE	8/31/21		09/01/21				

OFFICIAL RECORD COPY



INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

PERIODIC MEETING WITH THE STATE OF MAINE

TYPE OF OVERSIGHT: NONE

July 19, 2021

FINAL

PERIODIC MEETING PARTICIPANTS

NRC

- Blake Welling: Director, Division of Radiological Safety and Security, U.S. Nuclear Regulatory Commission (NRC), Region I
- Monica Ford: Regional State Agreements Officer, NRC, Region I

Maine Center for Disease Control and Prevention

- Michael Abbott, Director Environmental and Community Health
- Jay Hyland, Nuclear Safety Inspector, Office of Nuclear Safety¹
- Tom Hillman, RAM Inspector, Radioactive Materials Program
- Catherine Perham, RAM Inspector, Radioactive Materials Program

¹ Mr. Hyland is the former Radiation Control Program Manager. Mr. Hyland switched to his new position on June 28, 2021.

Maine Periodic Meeting Summary

1.0 INTRODUCTION

This report presents the results of the periodic meeting held between the U.S. Nuclear Regulatory Commission (NRC) and the State of Maine on July 19, 2021. The meeting was conducted in accordance with the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-116 "Periodic Meetings between IMPEP Reviews," dated June 3, 2009.

The Maine Agreement State Program underwent an Integrated Materials Performance Evaluation Program (IMPEP) review on July 22-26, 2019. A Management Review Board (MRB) meeting to discuss the outcome of the IMPEP review was held on October 10, 2019. Based on the findings presented, the MRB found Maine's performance satisfactory for six performance indicators: Technical Staffing and Training, Status of Materials Program, Technical Quality of Inspections, Technical Quality of Licensing Actions, Technical Quality of Incidents and Allegations, and Sealed Source and Device Evaluation Program, and satisfactory, but needs improvement for the performance indicator Legislation, Regulations, and Other Program Elements (formerly known as Compatibility Requirements). No new recommendations to improve program performance were made and the open recommendation from the 2015 IMPEP review was closed. Overall, Maine was found adequate to protect public health and safety and compatible with the NRC's program. The MRB determined that the next IMPEP review should take place in approximately 4 years with a periodic meeting in approximately 2 years.

The Maine Agreement State Program is administered by the Radiation Control Program which is part of the Division of Environmental and Community Health. The Division of Environmental and Community Health is a part of the Center for Disease Control and prevention which falls under the Department of Health and Human Services. No changes to the organizational structure of the Agreement State Program have occurred since the 2019 IMPEP review.

The Maine Agreement State Program regulates approximately 91 specific licenses authorizing possession and use of radioactive materials. The periodic meeting focused on the radioactive materials program as it is carried out under the Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of Maine.

The Maine Agreement State Program is 100 percent fee funded. Maine last increased its fees in 2010 and charges 50 percent of the NRC's fees from fiscal year 2009. The funds are placed into a dedicated fund for use by the Radiation Control Program.

2.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review the NRC regional and Agreement State radioactive materials programs during an IMPEP review. These indicators are (1) Technical Staffing and Training, (2) Status of Materials Inspection Program, (3) Technical Quality of Inspections, (4) Technical Quality of Licensing Actions, and (5) Technical Quality of Incident and Allegation Activities. Each of these indicators was discussed during the July 2021 periodic meeting.

Maine Periodic Meeting Summary

2.1 Technical Staffing and Training (2019 IMPEP review: Satisfactory)

The Maine Agreement State Program is comprised of 2 technical staff members and a Program Manager, which is equivalent to 2.3 full time equivalents (FTE). There has been no change in the number of FTE dedicated to this program since the 2019 IMPEP review. The Program Manager position is currently vacant. This vacancy occurred when the former Program Manager accepted a new position as the State's Nuclear Safety Inspector. This became effective on June 28, 2021. The Program Manager position is in the process of being posted and the hope is that it will be filled in the near future. The former Program Manager plans to cover his previous duties until the position is filled.

Both technical staff are fully qualified license reviewers and inspectors. The training and qualification manual used by staff is compatible with the NRC's Inspection Manual Chapter (IMC) 1248, "Formal Qualifications Program for Federal and State Material and Environmental Management Programs." Both qualified staff are meeting and exceeding the requirement to complete 24 hours of refresher training every 24 months. No programmatic impacts from the COVID-19 public health emergency (PHE) were noted for this indicator.

2.2 Status of the Materials Inspection Program (2019 IMPEP review: Satisfactory)

The Maine Agreement State Program has completed 27 Priority 1, 2, and 3 inspections and 4 initial inspections since the last IMPEP review. No inspections were completed overdue. Additionally, there were no Priority 1, 2, 3, or initial inspections overdue for inspection at the time of the periodic meeting. Inspection frequencies are the same as those used by the NRC.

Reciprocity inspections of candidate licensees are performed in a manner similar to that previously documented in the NRC's IMC 1220. Greater than 20 percent of candidate licensees have been inspected each year (38 percent in calendar year (CY) 2019; 30 percent in CY 20, and 33 percent to date in CY 21). A discussion of the phase 2 changes to the NRC's IMC 2800 and the flexibility allowed for reciprocity inspections was held during the meeting. The NRC's changes to its reciprocity program were shared in State and Tribal Communications Letter STC-20-082. The Program stated that the changes related to reciprocity inspection requirements would be reviewed to determine what if any changes to programmatic policies were needed.

The Maine Agreement State Program's goal is to issue inspection findings within 30 days of the inspection exit and generally adheres to this time frame. No programmatic impacts from the COVID-19 public health emergency (PHE) were noted for this indicator.

2.3 Technical Quality of Inspections (2019 IMPEP review: Satisfactory)

Staff performing radioactive materials inspections are accompanied on an annual basis. Both inspectors have been accompanied yearly since the last IMPEP review.

Maine Periodic Meeting Summary

The Maine Agreement State Program uses inspection procedures that are compatible with the inspection guidance outlined in the NRC's IMC 2800 and associated inspection procedures. A variety of appropriately calibrated survey instruments are maintained to support the inspection program. No COVID-19 PHE impacts were noted for this indicator.

2.4 Technical Quality of Licensing Actions (2019 IMPEP Review: Satisfactory)

The Maine Agreement State Program has regulatory authority over approximately 91 specific licensees. All licensing actions are completed in a timely manner. One hundred and nine licensing actions have been completed since the last IMPEP review. Two actions are actively being worked on and have been in process for less than a month. Licenses are issued on a five-year renewal term.

Staff use the NRC's NUREG 1556 Series licensing guidance, the NRC's Pre-licensing Guidance, and the Risk Significant Radioactive Materials Checklist when performing licensing actions. Qualified staff sign each license once the action is complete before issuance.

2.5 Technical Quality of Incident and Allegation Activities (2019 IMPEP review: Satisfactory)

The Maine Agreement State Program continues to maintain an effective response to incidents and allegations. Five reportable events were received since the last IMPEP review. One event (Nuclear Materials Events Database (NMED) item 200436) was not reported in the correct manner as stated in State Agreements Procedure (SA) 300, "Reporting Material Events." A discussion of this event and the applicable reporting requirement was held during the periodic meeting. The event was submitted straight to NMED as a written report; however, it should have been submitted to the NRC's Headquarters Operations Center following the guidelines for a 24-hour report. For completeness, the event was submitted to the NRC's Headquarters Operations Center on July 19, 2021.

One allegation was received since the last IMPEP review. The allegation was reviewed, processed, and closed in a timely manner. Identities of concerned individuals are protected appropriately. No impacts from the COVID-19 PHE were noted for this indicator.

3.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Legislation, Regulations, and Other Program Elements (LROPE), (2) Sealed Source and Device (SS&D) Evaluation Program, (3) Low-Level Radioactive Waste Disposal (LLRW) Program, and (4) Uranium Recovery (UR) Program. The NRC's Agreement with Maine does not relinquish regulatory authority for LLRW and UR; therefore, only the non-common performance indicators LROPE and SS&D apply.

Maine Periodic Meeting Summary

3.1 LROPE (2019 IMPEP review: Satisfactory but needs improvement)

The State of Maine became an Agreement State on April 1, 1992. The current effective statutory authority is contained in Title 22 "Health and Welfare," Chapter 160 "Radiation Protection Act," of the Maine Statutes. The Department is designated as the State's radiation control agency. No legislation affecting the Agreement State Program was passed during the review period.

The administrative rulemaking process typically takes between eight and fourteen months from drafting to finalizing a rule. The public, the NRC, other agencies, and potentially impacted licensees and registrants are offered an opportunity to comment during the process. Comments are considered and incorporated, as appropriate. The State's rules and regulations are not subject to "sunset" laws.

At the time of the 2019 IMPEP review, the team determined that Maine had eight regulation amendments that were overdue for adoption. A draft rulemaking package was submitted to the NRC for a compatibility review on July 23, 2019. The NRC responded with comments on September 30, 2019. After the comments were incorporated, the regulations were stalled when a change in administration occurred and were further delayed due to the COVID-19 PHE. As a result of the delay, the rule package was able to be pulled back and additional changes, to incorporate an additional regulation that went overdue for adoption and a few upcoming regulation amendments due for adoption, were made. The rule package is back with the Attorney General. It is not currently known when approval for the rules to continue through the process might be granted. Once approved the package will move to a public hearing. After the hearing is completed the State will need to approve or disapprove the regulations within 120 days.

3.2 SS&D (2019 IMPEP review: Satisfactory)

There are two active SS&D registry sheets in the State of Maine. Maine, per their agreement with the NRC, has authority for the evaluation of radiation safety information on sealed sources and devices containing radioactive material. However, due to the size of the program, Maine does not have staff qualified to perform SS&D reviews. Since Maine is a part of the New England Radiological Health Committee, it is able to utilize expertise from another committee State to help perform the SS&D reviews and approvals. Experienced and qualified staff in Massachusetts and New Hampshire have performed the primary and secondary SS&D reviews for actions received by Maine. No impacts to this indicator were seen as a result of the COVID-19 PHE.

4.0 SUMMARY

The Maine Agreement State Program continues to maintain an effective Agreement State Program. The Program Manager position is vacant. No inspections have been performed overdue since the last IMPEP review and licensing actions are completed timely. Timely adoption of regulations continues to be problematic for the State. There are nine regulation amendments overdue for adoption. Rule changes have been drafted to address these amendments and are awaiting approval from the Attorney General so they can move forward. The next IMPEP review should be conducted as scheduled in July 2023.