



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001

October 5, 2022

Horacio A. Tablada, Deputy Secretary
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, MD 21230

Dear Mr. Tablada:

On August 23-25, 2002, the Integrated Materials Performance Evaluation (IMPEP) team conducted a follow-up IMPEP review of the Maryland Agreement State Program. The follow-up IMPEP, focused on the indicator Technical Quality of Licensing Actions. The U.S. Nuclear Regulatory Commission (NRC) uses the IMPEP to conduct the review of Agreement State and NRC radiation control programs. Enclosed is the draft IMPEP report, which documents the results of the follow-up IMPEP review of the Maryland Agreement State program. The IMPEP team's preliminary findings were discussed with you and your staff on the last day of the review. The team's proposed recommendations are that the Maryland Agreement State Program be found adequate to protect public health and safety and compatible with the NRC's program. The team found Maryland's performance to be satisfactory but needs improvement for the performance indicator: Technical Quality of Licensing Actions.

The NRC conducts periodic reviews of radiation control programs to ensure that public health and safety are adequately protected from the potential hazards associated with the use of radioactive materials and that Agreement State programs are compatible with the NRC's program. The IMPEP process uses a team comprised of Agreement State and NRC staff to perform the reviews. All reviews use common criteria in the assessment and place primary emphasis on performance. The final determination of adequacy and compatibility of each program, based on the IMPEP team's report, is made by the Management Review Board (MRB) Chair after receiving input from the MRB members. The MRB is composed of NRC senior managers and an Agreement State program manager.

In accordance with procedures for implementation of IMPEP, we are providing you with a copy of the draft report for your review and comment prior to submitting the report to the MRB. Comments are requested within 4 weeks from your receipt of this letter. This schedule will permit the issuance of the final report in a timely manner.

The IMPEP team will review the response, make any necessary changes to the report, and issue it to the MRB as a proposed final report. The MRB meeting is scheduled to be conducted remotely on December 8, at 1:00pm ET via Microsoft Teams. The NRC will provide you with Microsoft Teams connection information prior to the meeting.

If you have any questions regarding the enclosed report, please contact Stephen Poy at 301-415-7135.

Thank you for your cooperation.

Sincerely,



Signed by Anderson, Brian
on 10/05/22

Brian C. Anderson, Chief
State Agreement and Liaison Programs Branch
Division of Materials Safety, Security, State,
and Tribal Programs
Office of Nuclear Material Safety and Safeguards

Enclosure:
2022 Maryland Draft IMPEP Report

cc: Eva Nair
Air and Radiation Program Manager
Maryland Department of the Environment

SUBJECT: MARYLAND FY2022 DRAFT IMPEP REPORT DATE October 5, 2022

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM
REVIEW OF THE MARYLAND PROGRAM

AUGUST 23 – 25, 2022

DRAFT REPORT

EXECUTIVE SUMMARY

The results of the follow-up Integrated Materials Performance Evaluation Program (IMPEP) review of the Maryland Agreement State Program are discussed in this report. The follow-up IMPEP review was conducted from August 23-25, 2022. The follow-up IMPEP focused on the indicator Technical Quality of Licensing Actions.

The team found Maryland's performance to be satisfactory but needs improvement for the performance indicator: Technical Quality of Licensing Actions.

Based on the 2022 follow-up IMPEP review, the team determined that the 2021 recommendation regarding the review of the qualifications of all radiation safety officers, authorized users, and authorized medical physicists on Maryland's medical licenses should remain open. The team determined that the 2021 IMPEP review recommendation related to the protection of sensitive information should be closed. In addition, the team made one new recommendation related to Maryland's licensing procedures that Maryland:

- Update licensing procedures to ensure the reviewer conducts a thorough analysis of the licensee's inspection and enforcement history of renewal applications and that Maryland conduct training on the updated procedures.

Accordingly, the team recommends that the Maryland Agreement State Program be found adequate to protect public health and safety and compatible with the NRC's program. The team recommends that a periodic meeting take in approximately 18 months with the next IMPEP review take place in approximately 3 years.

1.0 INTRODUCTION

The Maryland Agreement State Program follow-up Integrated Materials Performance Evaluation Program (IMPEP) review was conducted from August 23–25, 2022, by a team of technical staff members from the U.S. Nuclear Regulatory Commission (NRC) and the State of Oklahoma. Team members are identified in Appendix A.

This review was conducted in accordance with the “Agreement State Program Policy Statement,” published in the *Federal Register* on October 18, 2017 (82 FR 48535), and NRC Management Directive (MD) 5.6, “Integrated Materials Performance Evaluation Program (IMPEP),” dated July 24, 2019. Preliminary results of the review, which covered the period of July 17, 2021 to August 25, 2022, were discussed with Maryland managers on the last day of the review.

In preparation for the follow-up review, a questionnaire addressing the common performance indicator Technical Quality of Licensing Actions was sent to Maryland on July 13, 2022. Maryland provided its response to the questionnaire on July 25, 2022. A copy of the questionnaire response is available in the NRC’s Agencywide Documents Access and Management System (ADAMS) using the Accession Number [ML22208A222](#).

The Maryland Agreement State Program is administered by the Radiological Health Program (RHP). The RHP is located within the Air and Radiation Administration of the Maryland Department of the Environment. Organization charts for Maryland are available in [ML21189A270](#).

At the time of the review, Maryland regulated 531 specific licenses authorizing possession and use of radioactive materials. The review focused on the radiation control program as it is carried out under Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of Maryland.

The team evaluated the information gathered against the established criteria for the common performance indicator focused on during this review and made a preliminary assessment of Maryland’s performance.

2.0 PREVIOUS IMPEP REVIEW AND STATUS OF RECOMMENDATIONS

The previous IMPEP review concluded on July 16, 2021. The final report is available in [ML21302A094](#). The results of the review and the status of the associated recommendations are as follows:

Technical Staffing and Training: Satisfactory
Recommendation: None

Status: Satisfactory
Recommendation: None

Status of Materials Inspection Program: Satisfactory
Recommendation: None

Technical Quality of Inspections: Satisfactory
Recommendation: None

Technical Quality of Licensing Actions: Satisfactory, but needs improvement

Recommendation 1: Maryland review the qualifications of all radiation safety officers (RSOs), authorized users (AUs), and authorized medical physicists (AMPs), listed on their medical licenses to ensure that they meet the qualifications in accordance with Maryland's regulations for medical use of byproduct material.

Status: Based on the 2022 follow-up IMPEP review, the team determined that while Maryland had made significant progress in reviewing the qualifications of all RSOs, AUs, and AMPs, this recommendation should remain open.

Recommendation 2: Maryland develop and implement a procedure to ensure protection of sensitive information as it applies to written correspondence with licensees.

Status: Based on the 2022 follow-up IMPEP review, the team determined that Maryland developed and implemented a procedure for the protection of sensitive information and that the recommendation should be closed.

Technical Quality of Incident and Allegation Activities: Satisfactory Recommendation: None

Legislation, Regulation, and Other Program Elements: Satisfactory Recommendation: None

Sealed Source and Device Evaluation Program: Satisfactory Recommendation: None

Overall finding: Adequate to protect public health and compatible with the NRC's program.

3.0 COMMON PERFORMANCE INDICATORS

As mentioned in this report, this is a follow-up review which focused on the indicator, Technical Quality of Licensing Actions.

3.1 Technical Quality of Licensing Actions

The quality, thoroughness, and timeliness of licensing actions can have a direct bearing on public health and safety, as well as security. An assessment of licensing procedures, implementation of those procedures, and documentation of communications and associated actions between the Maryland licensing staff and regulated community is a significant indicator of the overall quality of the licensing program.

a. Scope

The team used the guidance in State Agreements procedure SA-104, "Reviewing the Common Performance Indicator: Technical Quality of Licensing Actions," and evaluated Maryland's performance with respect to the following performance indicator objectives:

- Licensing action reviews are thorough, complete, consistent, and of acceptable technical quality with health, safety, and security issues properly addressed.

- Essential elements of license applications have been submitted and elements are consistent with current regulatory guidance (e.g., pre-licensing guidance, Title 10 *Code of Federal Regulation* (CFR) Part 37, financial assurance, etc.).
- License reviewers, if applicable, have the proper signature authority for the cases they review independently.
- License conditions are stated clearly and can be inspected.
- Deficiency letters clearly state regulatory positions and are used at the proper time.
- Reviews of renewal applications demonstrate a thorough analysis of a licensee's inspection and enforcement history.
- Applicable guidance documents are available to reviewers and are followed (e.g., NUREG-1556 series, pre-licensing guidance, regulatory guides, etc.).
- Licensing practices for risk-significant radioactive materials are appropriately implemented including the physical protection of Category 1 and Category 2 quantities of radioactive material (10 CFR Part 37 equivalent).
- Documents containing sensitive security information are properly marked, handled, controlled, and secured.

a. Discussion

During the follow-up review period, Maryland performed 357 radioactive materials licensing actions. The team evaluated 9 of those licensing actions: 1 new application, 4 amendments, 2 renewals, and 2 terminations. The team evaluated casework which included the following license types and actions: medical diagnostic and therapeutic, industrial radiography, panoramic and self-shielded irradiators, service providers, financial assurance, and notifications. The casework sample represented work from six former and current license reviewers. Since the previous IMPEP review, two license reviewers left the program. One of the contract employees joined the program to fill the vacancy, and Maryland intends to hire another contract employee to replace the person who joined the program.

As a result of the 2021 IMPEP review, the IMPEP team recommended, and the Management Review Board (MRB) Chair agreed, that Maryland review the qualifications of all RSOs, AUs, and AMPs listed on their medical licenses to ensure that they meet the qualifications in accordance with Maryland's regulations for medical use of byproduct material.

Maryland conducted a thorough review of the qualifications of RSOs, AUs, and AMPs on Maryland medical licenses. During the follow-up IMPEP review, the team found that Maryland had reviewed 168 RSO, 830 AU, and 125 AMP qualifications on 154 active licenses, and had removed all errors using requests for additional information. Maryland has approximately 100 licenses remaining to be reviewed. The team determined that Maryland's license reviewers had a thorough understanding of the RSOs, AUs, and AMPs qualifications listed on their medical licenses, and the need to ensure that they meet the qualifications in accordance with Maryland's regulations for medical use of byproduct material. Based on their review, Maryland did not identify any events or health and safety issues attributed to any users being improperly placed on Maryland medical licenses. The team determined that Maryland had made significant progress on the review of RSOs, AUs, and AMPs. However, the 2022 IMPEP team recommends that this recommendation stay open until Maryland's qualifications review is complete.

Following the 2021 IMPEP review, Maryland implemented a procedure to ensure the protection of sensitive information. A thorough review of licensing actions since the 2021 IMPEP showed proper marking on correspondence with licensees. The team

recommends that this recommendation from the 2021 IMPEP review be closed.

For renewals issued during the follow-up IMPEP review period, the team found that renewal applications did not demonstrate a thorough analysis of a licensee's inspection and enforcement history. The team conducted interviews with the Maryland staff and found that reviews of the licensing procedures and checklists were not always thorough. The team noted that there were no health and safety issues related to the incomplete analysis of licensee's inspection and enforcement history.

b. Evaluation

The team determined that during the review period Maryland met the performance indicator objectives listed in Section 3.4.a, except for:

- Reviews of renewal applications did not demonstrate a thorough analysis of a licensee's inspection and enforcement history.

Because Maryland's program did not demonstrate a thorough analysis of licensee's inspection and enforcement history, the team made one new recommendation that Maryland:

- Update licensing procedures to ensure the reviewer conducts a thorough analysis of the licensee's inspection and enforcement history of renewal applications and that Maryland conduct training on the updated procedures.

Based on the IMPEP evaluation criteria in MD 5.6, the team recommends that Maryland's performance with respect to the indicator, Technical Quality of Licensing Actions, be found satisfactory, but needs improvement.

c. MRB Chair's Determination

The final report will present the MRB Chair's determination regarding this indicator.

4.0 SUMMARY

Based on the results of the 2022 follow-up IMPEP review, the team recommends that Maryland's performance be found to be satisfactory, but needs improvement, for the performance indicator Technical Quality of Licensing Actions.

The 2022 follow-up IMPEP review team determined that the 2021 recommendation regarding the review of the qualifications of all RSOs, AUs, and AMPs on Maryland's medical licenses should remain open. The team also determined that the 2021 IMPEP review recommendation related to the protection of sensitive information should be closed. In addition, the team made one new recommendation that Maryland:

- Update licensing procedures to ensure the reviewer conducts a thorough analysis of the licensee's inspection and enforcement history of renewal applications and that Maryland conduct training on the updated procedures.

Accordingly, the team recommends that Maryland be found adequate to protect public health and safety, and compatible with the NRC's program. Based on the results of the 2022 IMPEP review, the team recommends that the next full IMPEP review take place in approximately 3 years, with a periodic meeting in approximately 18 months.

LIST OF APPENDICES

Appendix A	IMPEP Review Team Members
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APPENDIX A

IMPEP REVIEW TEAM MEMBERS

Name	Areas of Responsibility
Stephen Poy, NMSS	Team Leader Technical Quality of Licensing Actions
Keisha Cornelius, Oklahoma	Technical Quality of Licensing Actions
Farrah Gaskins, Region I	Periodic Meeting