

# MAINE STATE LEGISLATURE

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Paul R. LePage, Governor Ricker Hamilton, Acting Commissioner

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September 27, 2017

**MEMORANDUM**

**TO:** Senator Michael Thibodeau, President of the Senate, and Representative Sara Gideon, Speaker of the House

**FROM:** Ricker Hamilton, Acting Commissioner  
Department of Health and Human Services

**SUBJECT:** State Nuclear Safety Inspector's July 2017 Monthly Report to the Legislature on the Interim Spent Fuel Storage Facility in Wiscasset, Maine

Legislation enacted in the spring of 2008 requires the State Nuclear Safety Inspector to provide monthly reports to the President of the Senate, Speaker of the House, the U.S. Nuclear Regulatory Commission, and Maine Yankee. The report emphasizes local and national highlights on the storing and disposing of used nuclear fuel.

The enclosed report provides the information required under Title 22 of the Maine Revised Statutes Annotated §666, as enacted under Public Law, Chapter 539, in the second regular session of the 123<sup>rd</sup> Legislature.

Should you have questions about its content, please feel free to contact Mr. Patrick J. Dostie, State Nuclear Safety Inspector, at 287-6721.

RH/klv

Enclosure

cc: Mark Lombard, U.S. Nuclear Regulatory Commission  
Monica Ford, U.S. Nuclear Regulatory Commission, Region I  
J Stanley Brown, Independent Spent Fuel Storage Installation Manager, Maine Yankee  
Nick Adolphsen, Acting Senior Health Policy Advisor  
Sheryl Peavey, Chief Operating Officer, ME Center for Disease Control and Prevention  
Paul Mercer, Commissioner, Department of Environmental Protection  
Barry Hobbins, Maine Public Advocate  
Lieutenant Scott Ireland, Special Services Unit, Maine State Police  
Nancy Beardsley, Director, Division of Environmental Health  
Jay Hyland, PE, Manager, Radiation Control Program

State Nuclear Safety Inspector Office  
Maine CDC – DHHS

July 2017 Monthly Report to the Legislature

The report covers activities at the Maine Yankee Independent Spent Fuel Storage Installation (ISFSI) facility, including the State's ongoing environmental radiation surveillance and provides updates on the national effort to license and construct a consolidated interim storage facility and/or a permanent geologic repository for the disposal of spent nuclear fuel. Maine's goal is to move the ISFSI waste stored at Maine Yankee to one of these facilities. The report highlights the significant activities that took place locally, nationally and at times, internationally, during the month.

Local:

- At the quarterly briefing of the Yankee Atomic, Maine Yankee, and Connecticut Yankee Federal Energy Regulatory Commission's Rate Case Settlement Parties, the General Counsel reported that the three utilities had filed their Phase IV spent fuel lawsuit against the Department of Energy (DOE) to address damages incurred from 2013 through 2016 for DOE's failure to take their spent fuel. The Government was expected to file a motion to force the three Yankees to prove their case with a trial date projected for next year.
- Maine Yankee submitted to the Department of Environmental Protection (DEP) their comments on DEP's Resource Conservation and Recovery Act (RCRA) 2020 list and its impact on the future monitoring and closure of the Maine Yankee site. Maine Yankee offered supporting comments from Robert Gerber, a hydrogeologist who has been familiar with the Maine Yankee site since the 1960s. Mr. Gerber commented on how the RCRA Corrective Action process could be simplified such as quicker reviews, face-to-face meetings to resolve technical issues, and ways to minimize post-closure monitoring.

National:

- The Nuclear Energy Institute (NEI) filed a brief with the U.S. Court of Appeals for the Fifth Circuit opposing Texas' lawsuit against the federal government that sought restitution and disgorgement from the Nuclear Waste Fund (NWF) to pay for the spent nuclear fuel stored in Texas. NEI maintained that the restitution and disgorgement remedy was not possible under the Nuclear Waste Policy Act (NWPA) without a total breach of the Standard Contract between the government and the nuclear utilities. The NWPA prohibits a total breach as it would revoke the federal government's obligation to dispose of the spent nuclear fuel. NEI argued for dismissal of Texas' petition on the grounds that it was untimely, Texas lacked standing to seek restitution and disgorgement, the petition should have been brought to the U.S. Court of Federal Claims, Texas had not exhausted its administrative remedies, and Texas failed to state a claim for mandamus relief.
- The National Association of Regulatory Utility Commissioners issued a resolution urging Congress to immediately enact legislation that would re-establish "a functioning Nuclear Waste Program per the original Nuclear Waste Policy Act." The resolution also contended that the final legislation should:
  - a) "Mandate completion of the review of the Yucca Mountain license application, requiring a final decision before permitting further NWF expenditures, or actual construction on any interim storage facility, or the resumption of any NWF fee on ratepayers;
  - b) Assure that the corpus of the NWF is ultimately disbursed to advance the federal waste disposal program;

- c) Reinforce the requirement for DOE to take title of the waste and clarify that DOE cannot meet its contractual obligation by just taking title of the waste where it's currently stored on utility property; and
- d) Assure that any examination by the DOE Secretary to restart the NWF fee includes an analysis of whether the annual interest on the corpus is sufficient to cover the projected outlays for the repository and any other required disbursements.”
- After a vote of 2 to 1 the Nuclear Regulatory Commission (NRC) authorized \$110,000 from existing NWF monies for information gathering activities to re-establish the infrastructure to support the restart of the Yucca Mountain licensing proceedings. The activities involved conducting one Licensing Support Network Advisory Panel virtual meeting to provide information and gather input from Panel members and the public on the newly formed NRC's Licensing Support Network. The activities also included surveying potential Nevada hearing sites and possible procurement for space, besides evaluating the use of virtual courtroom technology and existing facilities at NRC headquarters in Rockville, Maryland.

### International:

- Canada has been testing their newly designed spent fuel container for future disposal in a deep geologic repository. Rigorous testing of the Canadian engineered-barrier system, comprised of a copper-coated container encapsulated in bentonite clay in the host rock, demonstrated that “it will take several million years for the container to lose even a hair's width of its copper cladding to corrosion.” Current calculations show that it could take as long as 105 million years for groundwater corrosion to puncture the container wall. Consequently, it is predicted that the containers will remain intact without any releases of radioactivity over the one million post closure timeframe.
- Japan's Ministry of Economy, Trade, and Industry published a “scientific characteristic map” of the country that indicates areas with suitable geological conditions for the disposal of high-level radioactive waste based on low volcanic or earthquake/fault activity, strength of the underground rock, soil temperature, groundwater acidity, and potential drilling sites for reserves of coal, oil, natural gas, metals or minerals. The map divided the country into four categories using colors to distinguish one from the other. Up to 70% of Japan was found to be suitable with coastal areas being preferred in terms of transportation.
- Canada has expanded its testing facility in Oakville, Ontario to conduct experiments on full-sized components. Besides working on optimizing the electrodeposition of copper on the steel container, the facility is also performing engineering work on improving the manufacturing technology for the bentonite clay buffer box that will house the spent fuel container. The facility plans by the end of 2017 to “install a bentonite shaping cell that uses robotics to precisely shape the 4,000 kilogram (~8819 pounds) bentonite blocks into the correct dimensions for a deep geological repository.” Currently, engineers are constructing “a full-scale mock-up of an emplacement room that will be used to demonstrate the emplacement technology in the repository environment.”