

September 19, 2007

MEMORANDUM TO: Charles L. Miller, Director
Office of Federal and State Materials
and Environmental Management Programs

George Pangburn, Deputy Director
Office of Federal and State Materials
and Environmental Management Programs

Karen D. Cyr
General Counsel

Mark A. Satorius, Deputy Regional Administrator
Region III

FROM: Kim K. Lukes, General Scientist */RA/*
State Agreements and Industrial Safety Branch
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: MINUTES: SEPTEMBER 6, 2007, UTAH
MANAGEMENT REVIEW BOARD (MRB) MEETING

Enclosed are the minutes of the MRB meeting held on September 6, 2007. If you have comments or questions, please contact me at (301) 415-6701.

Enclosure: Minutes of the Management
Review Board Meeting

cc: Jared Thompson, Arkansas
Organization of Agreement States
Liaison to the MRB

Dane Finerfrock, Director
Utah Division of Radiation Control

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF SEPTEMBER 6, 2007

These minutes are presented in the same general order as the items that were discussed in the meeting. The attendees were as follows:

Charles Miller, Acting MRB Chair, FSME
Karen Cyr, MRB Member, OGC
Aaron McCraw, DMSSA
Kim Lukes, DMSSA
Duncan White, DMSSA

George Pangburn, Acting MRB Member, FSME
James Lynch, Team Leader, RIII
Paul Michalak, DWMEP
Robert Lewis, DMSSA

By Videoconference:

Mark Satorius, MRB Member, RIII
Dane Finerfrock, UT
John Hultquist, UT
Mario Bettolo, UT
Gwyn Galloway, UT

Loren Morton, UT
Craig Jones, UT
David Hogge, UT
Philip Griffin, UT

By Teleconference:

Jared Thompson, OAS Liaison, AR
Jacqueline Cook, Team Member, RIV
George Johns, Team Member, MN

Earl Fordham, Team Member, WA
Linda McLean, Team Member, RIV
Sarah Fields, Sierra Club of Utah

- 1. Convention.** Mr. Aaron McCraw convened the meeting at 3:10 p.m. He noted that this Management Review Board (MRB) meeting was open to the public; one member of the public, representing the Sierra Club of Utah, participated in this meeting. He then transferred the lead to Dr. Charles Miller, Acting Chair of the MRB. Introductions of the attendees were conducted.
- 2. Utah IMPEP Review.** Mr. James Lynch, team leader, led the presentation of the Utah Integrated Materials Performance Evaluation Program (IMPEP) review results to the MRB. He summarized the review and noted the findings. The on-site review was conducted by an interoffice team during the period of June 11-15, 2007. A draft report was issued to the State for factual comment on July 13, 2007. The State responded on August 2, 2007, by letter from Mr. Dane Finerfrock, Director, Division of Radiation Control.

Common Performance Indicators. Mr. Lynch, for Ms. Linda McLean, presented the findings regarding the common performance indicator, Technical Staffing and Training. His presentation corresponded to Section 3.1 of the proposed final IMPEP report. The review team found Utah's performance with respect to this indicator to be "satisfactory" and made no recommendations. Ms. Karen Cyr inquired about the State's interest in receiving Commission financial support for training, if available. The State noted that it would be very helpful and well-received if financial support for training was provided by the Commission. The MRB agreed that Utah's performance met the standard for a "satisfactory" rating for this indicator.

Mr. George Johns presented the findings regarding the common performance indicator, Status of Materials Inspection Program. His presentation corresponded to Section 3.2 of the proposed final IMPEP report. The review team recommended that Utah's performance with respect to this indicator be found "satisfactory." Mr. Jared Thompson inquired whether the State had a mechanism in place to track inspections. The State indicated that all inspection activities are tracked in a computer database. The State noted that it has revised its guidance on inspection frequencies by eliminating the inspection extension option to reflect the current guidance on inspection frequencies in NRC's Inspection Manual Chapter 2800. Ms. Cyr indicated that the State's ability to perform general license inspections for most of its registered general licensees was noteworthy. The MRB agreed that Utah's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Johns also presented the findings regarding the common performance indicator, Technical Quality of Inspections. His presentation corresponded to Section 3.3 of the proposed final IMPEP report. The review team found Utah's performance with respect to this indicator to be "satisfactory" and made no recommendations. Mr. George Pangburn questioned the State about its level of experience with Increased Controls non-compliances. The State indicated that it has noticed about the same level of Increased Controls non-compliances as the Regional offices and other Agreement States. The MRB agreed that Utah's performance met the standard for a "satisfactory" rating for this indicator.

Ms. Jacqueline Cook presented the findings regarding the common performance indicator, Technical Quality of Licensing Actions. Her presentation corresponded to Section 3.4 of the proposed final IMPEP report. The review team found Utah's performance with respect to this indicator to be "satisfactory" and made no recommendations. Ms. Cyr noted that the State has an organized and complete process for its licensing program, including its institution of a peer-review process of licensing actions. The MRB agreed that Utah's performance met the standard for a "satisfactory" rating for this indicator.

Ms. McLean presented the findings regarding the common performance indicator, Technical Quality of Incident and Allegation Activities. Her presentation corresponded to Section 3.5 of the proposed final IMPEP report. The review team found Utah's performance with respect to this indicator to be "satisfactory, but needs improvement" and made one recommendation. The review team recommended that the State conduct on-site investigations of complex incidents to determine potential health and safety impacts and to evaluate licensees' actions to prevent recurrences. Utah staff agreed with the recommendation and the MRB's position on the importance of appropriate incident response. Utah is taking a renewed look at its efforts towards incident response. As an indication of the State's willingness to follow up on this issue and correct the problem with its process of handling responses to incidents, one of the Utah staff is completing a training course in root cause analysis. All MRB members reemphasized the importance of appropriate action and response to incidents, especially in cases of repeat offenders. Mr. Thompson did concur with the MRB's position on the importance of appropriate response, but mentioned that consideration should be made for those smaller States that have limited resources and close working relationships with its licensees. The MRB agreed that Utah's performance met the standard for a "satisfactory, but needs improvement" rating for this indicator.

Non-Common Performance Indicators. Mr. Lynch presented the findings regarding the non-common performance indicator, Compatibility Requirements. His presentation corresponded to Section 4.1 of the proposed final IMPEP report. The review team found Utah's performance to be "satisfactory" and made no recommendations. Mr. Lynch noted that since the IMPEP review, the eight amendments listed in the proposed final IMPEP report as never being reviewed in final form by the NRC, have since been reviewed in final form by the NRC with no comments. Since there was a discrepancy in the past regarding the State having submitted those eight amendments to the NRC for review and the NRC not having those amendments, on record, as being received, Mr. Pangburn and Dr. Miller stated that it might be helpful to ask States in future monthly calls with States if there are any issues with submittal of regulations or license conditions to the NRC. Mr. Lynch emphasized that the NRC's current process of reviewing regulations and license conditions is very organized and well maintained. Mr. Lynch continued to update the status of Utah's regulations by mentioning that the three additional amendments listed in the proposed final IMPEP report as being overdue and needing to be soon addressed by the State have since been submitted to the NRC for review. Ms. Cyr, Mr. Thompson, and Dr. Miller commended the State for its great attention to keeping its regulations up-to-date in a timely manner when most States have difficulties in maintaining its regulations. The MRB agreed that Utah's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Earl Fordham presented the findings regarding the non-common performance indicator, Low-Level Radioactive Waste Disposal Program. His presentation corresponded to Section 4.3 of the proposed final IMPEP report. The review team found Utah's performance to be "satisfactory" and made no recommendations. Mr. Pangburn commended Utah on its implementation of a modular approach, which allows flexibility in performing inspections of low-level radioactive waste sites. Dr. Miller questioned Utah as to where it is in regards to the license renewal process. Utah responded that since the IMPEP review, they have been in the public comment period process, which is anticipated to close soon. Utah has hosted two public meetings. The State anticipates that if no or minor comments are received in September 2007, the process will be concluded. If significant comments are received, the State plans to respond as necessary which may require substantial time to complete depending on the volume and nature of the comments. The MRB agreed that Utah's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Paul Michalak presented the findings regarding the non-common performance indicator, Uranium Recovery Program. His presentation corresponded to Section 4.4 of the proposed final IMPEP report. The review team found Utah's performance to be "satisfactory, but needs improvement" and made one recommendation. The review team recommended that the State institute a more comprehensive inspection program that ensures radiation safety and protection at uranium recovery facilities, including compliance with applicable regulatory requirements and license conditions. The MRB members agreed that the extended period of time that elapsed between radiation protection and safety inspections due to personnel issues was unacceptably long. The MRB emphasized the importance of ensuring that the program should come first, so the performance of the program should not suffer from personnel issues. Utah responded by noting that the personnel issues have since been resolved and has hired an experienced and competent individual. Utah indicated that the unresolved issue of the inappropriate

placement of personal dosimeters will be resolved by this calendar year. Mr. Thompson raised a question regarding whether Utah had a back-up system in place if a staffing issue arose again. The State responded that it does have an additional person trained to perform inspections, if needed. Dr. Miller raised a question regarding Utah's staffing level. Dr. Miller questioned Utah if it was adequately staffed for additional work if the State received any new applicants for uranium recovery facilities due to the renewed interest in uranium recovery. Utah responded that it has not received any requests from additional applicants at this time and believes that its current staffing is sufficient. Dr. Miller questioned Utah whether assistance with formal training in the area of uranium recovery would be helpful to the State staff. Utah indicated that currently one of the Regional offices is working with the State in coordinating formal training. The MRB debated which finding was most appropriate for this indicator due to the State allowing personnel issues to impact the performance of the program. After deliberation, the majority opinion of the MRB members led to the conclusion that a finding of "satisfactory, but needs improvement" was most appropriate for this indicator.

MRB Consultation/Comments on Issuance of Report. Mr. Lynch concluded, based on the discussion and direction of the MRB, that the Utah program was rated "satisfactory, but needs improvement," for the indicators, Technical Quality of Incident and Allegation Activities and Uranium Recovery Program, and "satisfactory" for all remaining performance indicators reviewed. The review team made two recommendations regarding the performance of the Utah Agreement State Program, as previously discussed. Accordingly, the review team recommended, and the MRB agreed, that the Utah Agreement State Program was adequate to protect public health and safety and compatible with NRC's program. The MRB directed that a followup review of Utah's incident and allegation activities and uranium recovery program take place in 1 year to ensure that the State is properly handling complex incidents that are reported to the State and the State has an adequate inspection program in place at uranium recovery facilities.

Comments. Mr. Lynch thanked Utah for its cooperation and assistance to the review team during the review. Utah noted that it enjoyed having the IMPEP team review its program and the review team's findings adequately captured what was expected by the State of their own program. Mr. Thompson commended the NRC for its continued success with the IMPEP process and noted that much can be learned by the States and the NRC through this process. Mr. Johns commented that the IMPEP process is a valuable process and will apply what he has learned through his participation in preparation for his State's upcoming IMPEP review. Mr. Fordham noted that his participation in the IMPEP process is valuable to his State as well. Ms. Sarah Fields communicated her concerns with the State of Utah not having much experience with a fully operational mill. Ms. Fields commented on the difficulties of obtaining various State documents as public records. Ms. Fields noted that a system in the States similar to ADAMS would be beneficial to the public in accessing various documents. Ms. Cyr responded to Ms. Fields' comment by noting that the Commission plans on examining its compatibility requirements regarding access to documents. Dr. Miller thanked the State for its cooperation and thanked the team for their presentation and hard work.

3. **Precedents/Lessons Learned.** No precedents that will be applied to the IMPEP process in the future were established by the MRB during this review.

4. **Good Practices.** No good practices were identified during this review.
5. **Adjournment.** The meeting was adjourned at approximately 4:45 p.m.