

June 27, 2013

MEMORANDUM TO: Michael F. Weber  
Deputy Executive Director for Materials, Waste,  
Research, State, Tribal, and Compliance Programs

Bradley W. Jones, Assistant General Counsel  
for Reactor and Materials Rulemaking  
Office of the General Counsel

Mark Satorius, Director  
Office of Federal and State Materials  
and Environmental Management Programs

FROM: Lisa Dimmick, Health Physicist */RA/*  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials  
and Environmental Management Programs

SUBJECT: MINUTES: April 8, 2013  
SPECIAL MANAGEMENT REVIEW BOARD (MRB) MEETING

Enclosed are the minutes of the Special MRB meeting held on April 8, 2013, to discuss the annual report on Agreement States' and NRC Radioactive Materials Programs for calendar year 2012, and the draft report on Integrated Assessment of Agreement State Program Performance. If you have comments or questions, please contact me at (610) 337-6942.

Enclosure: Cover Page and Minutes of the  
Management Review Board Meeting

cc w/encl.: Alan Jacobson, Chair  
Organization of Agreement States

Management Review Board Members

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<b>OFC</b>	<b>FSME/MSSA</b>	<b>FSME/MSSA</b>
<b>NAME</b>	L MBeardsley/via email	LDimmick
<b>DATE</b>	06/02/13	06/27/13

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MINUTES: SPECIAL MANAGEMENT REVIEW BOARD (MRB) MEETING OF April 8, 2013

The attendees were as follows:

In person at U.S. Nuclear Regulatory Commission (NRC) Headquarters in Rockville, Maryland:

Michael Weber, MRB Chair, OEDO  
Bradley Jones, MRB Member, OGC  
Mark Satorius, MRB Member, FSME  
Brian Holian, FSME  
Jack Foster, OEDO  
Stephen Poy, FSME

Brian McDermott, FSME  
Lisa Dimmick, FSME  
Pamela Henderson, FSME  
Duncan White, FSME  
Joan Olmstead, OGC

By telephone:

Alan Jacobson, MD  
Stephen James, OH

Michael Welling, VA

By video teleconference:

Raymond Lorson, Region I  
Monica Orendi, Region I  
Anne Boland, RIII  
James Lynch, Region III  
Martha Poston-Brown, Region IV  
Rob Lewis, RIV  
Latischa Hanson, RIV

William Dean, RI  
Michelle Beardsley, FSME  
Jared Heck, Region III  
Janine Katanic, FSME  
Randy Erickson, Region IV  
Vivian Campbell, Region IV

1. **Convention.** Ms. Lisa Dimmick convened the meeting at 1:02 p.m. She noted that this MRB meeting was open to the public. She then transferred the lead to Mr. Michael Weber, Chair of the MRB. Introductions of the attendees were conducted.
2. **Discussions.**

**Annual Report on Agreement States and the NRC Radioactive Materials Programs for calendar year 2012 (ADAMS ML130666A285):**

Annually the NRC staff reports to the Commission the status of the NRC's and Agreement State radioactive materials programs. The report includes information on adequacy and compatibility, programs on Heightened Oversight/Monitoring, trends, and IMPEP report timeliness metric. Ms. Dimmick summarized the findings in the report as follows:

- a) Program Adequacy and Compatibility Tracking:
  1. 2012: 29 of 37 programs, adequate, 9 adequate but needs improvement, and 3 not compatible
  2. 2011: 27 of 37 programs, adequate 10 adequate but needs improvement, and 2 not compatible
  3. 2010: 30 of 37 programs, adequate, 7 adequate but needs improvement, and 2 not compatible

4. 2009: 30 of 37 programs, adequate, 7 adequate but needs improvement, and 2 not compatible
  5. 2008: 29 of 37 programs, adequate, 9 adequate but needs improvement, and 2 not compatible
  6. All NRC regions adequate 2008 - 2012
- b) IMPEP report timeliness metric: 104 day goal met
1. 2012: 60%
  2. 2011: 70%
  3. 2010: 73%
  4. 2009: 88%
  5. 2008: 83%

The document concurrence process and/or scheduling of the MRB meeting sometimes impacts the timeliness metric and final reports are issued beyond the 104 goal.

- c) Heightened Oversight/Monitoring Status
1. 2012: 7 programs
  2. 2011: 8 programs
  3. 2010: 8 programs
  4. 2009: 7 programs
  5. 2008: 7 programs
- d) States on Heightened Oversight/Monitoring
1. Heightened Oversight: North Dakota, New York, Georgia
  2. Monitoring: Kentucky, New Hampshire, California, Rhode Island
- e) States removed from oversight process
1. Arizona
  2. Arkansas

The report concluded that no new trends of declining performance were observed in 2012. In addition, IMPEP is still a good tool to evaluate materials program performance. The Agreement States and the NRC programs have performed well and protect public health and safety.

The MRB discussed the report and provided the following feedback:

The Organization of Agreement States (OAS) commented that it was difficult to determine the difference between heightened oversight, monitoring and “enhanced oversight” as written in the report. Ms. Dimmick stated that clarification will be added in future reports. The OAS also stated that this report shows that the Agreement States and the NRC need to work together to decrease the number of States on enhanced oversight, i.e. the percentage of States on enhanced oversight, usually 20 percent, should not be accepted as the status quo.

The MRB requested that future reports contain graphics and other information to highlight the trending analysis results more clearly for individual States. The MRB asked Ms. Dimmick why the report did not state anywhere that this is basically a description of the national materials program performance. Mr. Duncan White responded that the concept of a “national materials program” has not been accepted as a defined term by the NRC and Agreement States, and opined that this can be added in future reports once determined. The MRB asked Ms. Dimmick about the timeliness metric on IMPEP

reports, specifically whether there were any negative impacts from the delayed reports noted. Mr. White responded that these metrics were put into place primarily to provide the States with a timely report; therefore, small delays are acceptable. Finally, the MRB requested that the annual report should be provided to the Commission prior to the annual OAS/Conference of Radiation Control Program Directors annual briefing.

### **Integrated Assessment of Agreement State Program Performance-draft report**

Ms. Dimmick reported that the purpose of the report was to (1) review trends in Agreement State performance and (2) identify practical solutions to improve performance.

The project involved a retrospective review of IMPEP data from 1996-2012. Performance indicators were scored and assessed for correlations in performance based on program size, age, staff turnover, administration changes, NRC policy changes and significant rules. As a result of the project, a baseline performance was established.

Data and Results are as follows:

- Baseline score of 4.64 is equivalent to 4 indicators being found satisfactory and 1 indicator, satisfactory but needs improvement.
- Highest performing indicators were technical quality of licensing actions and technical quality of inspections. Lowest scoring indicators were status of the materials inspection program and compatibility requirements.
- Sustaining performance: 20% of programs declined by second IMPEP, and 47% by the third review.
- Heightened Oversight/Monitoring (enhanced oversight): 46% (17 programs) of Agreement States have been on enhanced oversight. 59% (10 programs) of these went off within 4 years, 23% (4 programs) were on for 5 five years, 18% (3 programs) have been on for more than 8 years.
- Program age: 57% of program greater than 40 years have been on enhanced oversight, and 50% greater than 25 years have been on enhanced oversight. However several states greater than 25 years have had all satisfactory ratings on their IMPEPs.
- No performance correlation was observed with program size (number of specific licensees).
- No performance correlation was observed with burden of significant rule changes.
- A performance correlation was observed with significant staff turnover.

In conclusion, programs experience performance transitions and sustaining performance should be an expected challenge. No new trends of declining performance were observed. No new risks were identified for a program to return its full agreement.

Overall Agreement State performance has been steady. In conducting the assessment, staff identified a few areas—effective communication, periodic meetings, oversight tools, compatibility—for improvement that may help the NRC in its oversight role and Agreement States in sustaining performance.

The OAS commented, and the MRB agreed, that the title as stated in the draft report, "Strengthening the Agreement State Program" implied that the Program was weak and needed strengthening. Ms. Dimmick agreed and responded that she would welcome recommendations as to what the report should be titled in the final version. The OAS also noted that the time frame of the trending analysis, 1996-2012, was too long as the Agreement States and the IMPEP program had many changes during this time. The OAS suggested that the final report contain more information on the difficulty of performing a trending analysis due to the many variables encountered over the years. The MRB suggested that the final report contain more information regarding State staffing such as the length of time vacancies are open and the timeliness of staff training, not just the adequacy of training. The MRB further suggested that in the discussion in the report about States that are on heightened oversight and monitoring, it should be noted whether and what interaction the NRC has had with the State. The MRB also directed that the final report include reference to the results of the IMPEP self-assessment report dated June 2010 and the results of the Office of Inspector General (IG) audit report dated March 2009. The MRB noted that even though these reports were not performed in this calendar year, they would add pertinent information and perspective to this report's findings. The MRB asked Ms. Dimmick whether there would be any value to doing this analysis on a periodic basis. She replied that the methodology applied in the integrated assessment could be used in the annual report provided to the Commission on the NRC Regional and Agreement State Material Programs performance

**Comments.** Mr. Weber restated the MRB's agreement with the four recommendations made in the Integrated Assessment of Agreement State Program Performance draft report and asked staff to pursue these areas to enhance the IMPEP program.

3. **Precedents/Lessons Learned.** None applicable to this review.
4. **Adjournment.** The meeting was adjourned at 2:25 p.m.