

July 23, 2013

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

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

Brian E. Holian, Director  
Office of Federal and State Materials  
and Environmental Management Programs

David C. Lew, Regional Administrator  
Region I

FROM: Michelle R. Beardsley, Health Physicist */RA/*  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials  
and Environmental Management Programs

SUBJECT: MINUTES: JULY 15, 2013, NORTH DAKOTA  
MANAGEMENT REVIEW BOARD (MRB) MEETING

Enclosed are the minutes of the MRB meeting held on July 15, 2013. 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.: Terry Dwelle, M.D.  
State Health Officer  
North Dakota Department of Health

Cheryl Rogers, State of Wisconsin  
Organization of Agreement States  
Liaison to the MRB

Management Review Board Members

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF JULY 15, 2013

The attendees were as follows:

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

Michael Weber, MRB Chair, DEDMRT  
Bradley Jones, MRB Member, OGC  
Pamela Henderson, FSME  
Duncan White, FSME  
Bryan Parker, Team Leader, Region III

Brian Holian, MRB Member, FSME  
Kathleen Schneider, FSME  
Stephen Poy, FSME  
Vivian Campbell, OEDO

By videoconference:

Patty Pelke, Region III  
Anton Vogel, Region IV  
Christopher Lee, TTC

David Lew, MRB Member, Region I  
Roberto Torres, Region IV

By telephone:

Randy Erickson, Team Member, Region IV  
Cheryl Rogers, MRB Member, WI  
Terry O'Clair, ND  
Dale Patrick, ND  
David Stradinger, ND

Binesh Tharakan, Region IV  
Stephen Matthews, Team Member, WA  
Dan Harman, ND  
Lewis Vigan, ND

- 1. Convention.** Ms. Kathleen Schneider convened the meeting at 2:00 p.m. (ET). She noted that this Management Review Board (MRB) meeting was open to the public; however, no members of the public participated in this meeting. Ms. Schneider then transferred the lead to Mr. Michael Weber, Chair of the MRB. Introductions of the attendees were conducted.
- 2. North Dakota IMPEP Review.** Mr. Bryan Parker, Team Leader, led the presentation of the North Dakota followup Integrated Materials Performance Evaluation Program (IMPEP) review results to the MRB. He summarized the review and the team's findings that were focused on the State's performance in regard to the four common performance indicators: Status of Materials Inspection Program, Technical Quality of Inspections, Technical Quality of Licensing Actions, and Technical Quality of Incident and Allegation Activities. The on-site review was conducted by a review team composed of technical staff members from NRC and the State of Washington during the period of April 22 - 26, 2013. Accompaniments of both program inspectors were conducted the IMPEP team during the week of March 19-22, 2013. A draft report was issued to State for factual comment on May 31, 2013. The State responded to the review team's findings by letter dated June 24, 2013.

The review team made one new recommendation regarding the full qualification of inspection staff and kept one recommendation open from the previous IMPEP regarding staff retention and depth. The review team recommended closing the remaining 10 recommendations from the 2011 IMPEP review.

3. **Common Performance Indicators.** Mr. Parker presented the findings regarding the common performance indicator, *Status of Materials Inspection Program*. His presentation corresponded to Section 3.1 of the proposed final IMPEP report. The review team found North Dakota's performance with respect to this indicator to be satisfactory and closed the two previous recommendations related to this indicator. The review team determined that the Program performed none of its inspections overdue during the review period.

The MRB commented on the finding that currently none of the inspectors in the North Dakota Program are fully qualified in all inspection areas and inquired if this would lead to a back log in inspections. The State of North Dakota responded by indicating that the State of North Dakota was concentrating its efforts on the training of its staff and stated that the qualifications of the staff would not lead to a back log.

The MRB agreed with the team's recommendation that this indicator be found satisfactory.

Mr. Randy Erickson 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 North Dakota's performance with respect to this indicator to be satisfactory, but needs improvement. The review team closed two of the previous recommendations related to this indicator, and based on information reviewed during this IMPEP period provided a new recommendation.

The review determined that the inspectors were trained, well-prepared for the inspection, and thorough in their audits of the licensees' radiation safety programs. The inspectors conducted interviews with appropriate personnel, observed licensed operations, conducted confirmatory measurements, and utilized good health physics practices. The inspections were adequate to assess radiological health and safety and security at the licensed facilities. The MRB discussed with the team and the State the weakness that none of the technical staff are fully qualified to inspect all radioactive material program areas licensed by the State. The review team recommended that the State develop and implement a plan to ensure that inspectors become qualified to conduct inspections in all radioactive material program areas licensed by the State.

The MRB agreed that North Dakota's performance met the criteria for a satisfactory, but needs improvement rating for this indicator. The MRB agreed that the closing of the recommendation 5 on inspector training and the new recommendation. The MRB inquired if the State of North Dakota had followed up with the deficiencies that were raised in the last IMPEP and if the State had communicated with the licensees. The State responded that the appropriate actions were taken.

Mr. Stephen Matthews presented the findings regarding the common performance indicator, *Technical Quality of Licensing Actions*. His presentation corresponded to Section 3.4 of the proposed final IMPEP report. The review team found North Dakota's performance with respect to this indicator to be satisfactory and closed the four previous recommendations related to this indicator. Mr. Matthews reported that the licensing

actions were thorough, complete, consistent, and of high quality with health, safety, and security issues properly addressed.

The MRB agreed that North Dakota's performance met the criteria for a satisfactory rating for this indicator.

Mr. Parker presented the findings regarding the common performance indicator, *Technical Quality of Incident and Allegation Activities*. His presentation corresponded to Section 3.5 of the proposed final IMPEP report. The review team found North Dakota's performance with respect to this indicator to be satisfactory and closed the two previous recommendations related to this indicator.

The MRB agreed that North Dakota's performance met the standard for a satisfactory rating for this indicator.

4. **Non-Common Performance Indicators/Periodic Meeting.** Mr. Erickson stated that the indicator, *Compatibility Requirements*, was found satisfactory in the 2011 IMPEP and therefore, not reviewed in this followup review as noted in Section 4.0 of the proposed final IMPEP report. *Compatibility Requirements* were discussed under the Periodic Meeting held concurrently with the followup review. Mr. Erickson provided a brief discussion of the Periodic Meeting as noted in Appendix B of the report.

During discussions of the Periodic Meeting of *Technical Staffing and Training* indicator, the State of North Dakota indicated that they were recently authorized to post another position. Mr. O'Clair indicated that the Program anticipated posting the position shortly. This would allow the new Program Manager to spend more time managing the program. The MRB recommended that this information be captured in the MRB meeting minutes or report. The State indicated that this approval occurred after the onsite review and State review of the draft report in response to why the information was not in the IMPEP proposed final report. No change to the IMPEP report was made and the discussion is captured in these minutes.

The MRB also raised the issue of Program managers who were not qualified themselves in certain areas but qualified their staff in these areas (broad scope license modality). The MRB discussed the documentation issues of qualification. The State reported that all the necessary documentation of the previous Program Manager's qualifications would be completed by July 19, 2013. Mr. O'Clair noted that Mr. Harmon would be retiring on July 19, 2013. The MRB discussed the training for the new Program Manager, Mr. Patrick and the timing of his full qualifications for all modalities. Mr. O'Clair indicated that the State has appreciated NRC giving priority to North Dakota on available NRC courses, but time would be a function of the availability of several of the courses that Mr. Patrick needed to complete, such as the IC course.

As noted above, Mr. O'Clair stated that Mr Harman would retire on July 19, 2013, but could be rehired as a part-time contractor to help train and qualify existing and future staff in the near term.

- 5. MRB Consultation/Comments on Issuance of Report.** The MRB found the North Dakota Agreement State Program adequate, but needs improvement, to protect public health and safety and compatible with NRC's program. The MRB agreed that the period of Heightened Oversight of the North Dakota Agreement State Program be discontinued and that a period of Monitoring be initiated to allow additional time for the Program to demonstrate a period of sustained performance, especially with the impending vacancy of the Program Manager position. Based on the results of the current IMPEP review, the MRB agreed that a Periodic Meeting be held in approximately one year and the next IMPEP review of the North Dakota Agreement State Program take place in approximately two years.
- 6. Precedents/Lessons Learned.** The MRB established no new precedents during this meeting.
- 7. Adjournment.** The meeting was adjourned at approximately 3:00 p.m. (ET)