

August 12, 2013

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

James Biggins, Deputy Assistant General Counsel  
for Reactor and Materials Rulemaking  
Office of the General Counsel

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

David Lew, Deputy Administrator  
Region I

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

SUBJECT: MINUTES: June 17, 2013  
SPECIAL MANAGEMENT REVIEW BOARD (MRB) MEETING

Enclosed are the minutes of the Special MRB meeting held on June 17, 2013, to discuss the periodic meetings held with the Nebraska and Utah Agreement State Programs. 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.: Bill Dundulis, Rhode Island  
Organization of Agreement States  
Liaison to the MRB

Management Review Board Members

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| <b>NAME</b> | MBeardsley via email | KMeyer    |
| <b>DATE</b> | 08/12/13             | 08/12/13  |

**OFFICIAL RECORD COPY**

MINUTES: SPECIAL MANAGEMENT REVIEW BOARD (MRB) MEETING OF June 17, 2013

The attendees were as follows:

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

Michael Weber, MRB Chair, OEDO  
James Biggins, MRB Member, OGC  
Brian Holian, MRB Member, FSME  
Jack Foster, OEDO

Duncan White, FSME  
Lisa Dimmick, FSME  
Pamela Henderson, FSME  
Stephen Poy, FSME

By videoteleconference:

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

Michelle Beardsley, FSME

By telephone:

Bill Dundulis, MRB Member, RI  
Julia Schmitt, NE  
Randy Erickson, RIV  
Phil Goble, UT  
John Hultquist, UT

Rusty Lundberg, UT  
Latischa Hanson, RIV  
Craig Jones, UT  
Loren Morton, UT

1. **Convention.** Ms. Lisa Dimmick convened the meeting at 2:35 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. **Periodic Meetings Discussions:**

**Periodic Meeting with the Nebraska Agreement State Program**

Mr. Randy Erickson led the discussion of the results of the Periodic Meeting held with the Nebraska Department of Health (ADAMS Accession Number: ML13101A145). The meeting was held in Lincoln on March 7, 2013. Mr. Erickson stated that the last IMPEP review was conducted in October 2010. The team found all indicators reviewed to be satisfactory and made no recommendations. The team recommended, and the MRB agreed, that the Nebraska Agreement State Program be found adequate to protect public health and safety, and compatible with NRC's program.

Mr. Erickson noted that the Nebraska Program is currently fully staffed and has not suffered any staff losses since 2000. He also noted that while the staff is very experienced, this will be a challenge for the Program to transfer and maintain knowledge as some of the senior experienced staff may retire within the next few years. He further noted that the Program is current on inspections and supervisory accompaniments. Mr. Erickson reported that since the last IMPEP review, a new law was passed in the State that has resulted in an increase in the time it takes for the Program to process and complete rulemaking packages. The State reported that the new law requires that all State rules which are legislatively mandated take priority before others that are not, such as those required by NRC as a matter of compatibility. The MRB noted that while the NRC can express concerns with the new law, the NRC has no legal jurisdiction in this

matter unless performance issues are identified during the IMPEP process. Ms. Schmitt stated that she was appreciative that this issue was included in the periodic meeting summary report, and hoped that this might provide leverage for her concerns. She further stated that if it is found that the new law is impeding the timely adoption of NRC regulations, the State will consider requesting a letter from the NRC at that time. Mr. White noted that FSME is in the process of examining the criteria used in the IMPEP process to determine a State's compatibility with the NRC's program, to perhaps include criteria other than timeliness of regulation adoption.

The MRB also addressed the State's feedback on the NRC's program, i.e. FSME recognizes the burden on States to provide updates during emergencies/ natural disasters and is examining the process; the NUREG-1556 series revisions are being performed; and training webinars are being developed and will be deployed shortly.

Staff recommended, and the MRB agreed, that the next IMPEP review take place in FY 2015, as scheduled.

### **Periodic Meeting with the Utah Agreement State Program**

Mr. Randy Erickson led the discussion of the results of the Periodic Meeting held with the Utah Department of Environmental Quality (ADAMS Accession Number: ML13121A291). The meeting was held in Salt Lake City on March 21, 2013. Mr. Erickson stated that the last IMPEP review was conducted in July 2011. The team found all indicators reviewed to be satisfactory, except for the non-common performance indicators-Low Level Radioactive Waste (LLRW) Disposal Program and Uranium Recovery (UR) Program which were both found to be satisfactory, but needs improvement. The review team made three recommendations for the LLRW and UR programs regarding handling allegations and the use and supply of instrumentation. The team recommended, and the MRB agreed, that the Utah Agreement State Program be found adequate to protect public health and safety, and compatible with the NRC's program.

Mr. Erickson noted that at the time of the periodic meeting, State management reported that they have taken actions to address the recommendations by providing allegation training for all staff and generating a new allegation intake form; and providing instrumentation training to include the selection and use of proper instrumentation, and the requirement for all inspectors to use the State's instrumentation for the performance of confirmatory surveys. Mr. Erickson reported that the State does not have any significant backlogs in licensing activities, and no overdue inspections or regulation amendments according to Program management.

The MRB addressed the State's feedback on the NRC's program, i.e. they discussed the issue with the amount of documents sent to the States asking for comments, and particularly with the short time given for response (30 days). The State felt that this has seemed to escalate in recent years, especially with the Part 61 rulemaking and guidance. In addition, the State noted that the Part 61 guidance and proposed rule changes have the potential to place an added burden on those States with a disposal facility. They believe that the regulatory burden for waste acceptable criteria should be

shared by regulatory agencies in which the waste generators conduct business. The MRB asked if it would be helpful for the NRC to issue some type of communication to all States regarding adherence to waste criteria. The State agreed. Regarding the State's note of appreciation for training funding, the MRB cautioned that this may become an issue in the near future due to federal budget constraints. The MRB commended the State on the use of the Lean Six Sigma process improvement plan for assessing an internal reorganization, and offered assistance to the State as the NRC has individuals who have achieved "black belts" in the Lean Six Sigma process. The MRB asked the State if they could backfill positions if needed with the funds in the current Governor's budget. The State explained that they do not have a hiring freeze currently and could request an increase in fees to support additional FTE's, if necessary.

Staff recommended, and the MRB agreed, that the next IMPEP review take place in FY 2015, as scheduled.

**Comments.** Ms. Dimmick restated the MRB's decisions to maintain the next IMPEP reviews for the Nebraska and Utah Agreement State Programs as currently scheduled for FY 2015.

3. **Precedents/Lessons Learned.** None
4. **Adjournment.** The meeting was adjourned at 3:35 p.m.