



UNITED STATES
NUCLEAR REGULATORY COMMISSION
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February 19, 2006

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

Mary B. Spencer, Assistant General Counsel
for Reactor and Materials Rulemaking
Office of the General Counsel

Scott W. Moore, Deputy Director
Office of Nuclear Material Safety
and Safeguards

Darrell J. Roberts, Deputy Regional Administrator
Region III

FROM: Lisa C. Dimmick, Senior Health Physicist */RA/*
Agreement State Programs Branch
Division of Material Safety, State, Tribal,
and Rulemaking Programs
Office of Nuclear Material Safety and Safeguards

SUBJECT: MINUTES: OCTOBER 29, 2015 UTAH
MANAGEMENT REVIEW BOARD MEETING

Enclosed are the minutes of the Management Review Board (MRB) meeting held on October 29, 2015, for the Utah Agreement State program. If you have comments or questions, please contact me at (301) 415-0694.

Enclosure:
MRB Meeting Minutes

cc: Jennifer Opila, CO
Organization of Agreement States
Liaison to the MRB

Management Review Board Members

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF UTAH
OCTOBER 29, 2015

The attendees were as follows:

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

Mike Weber, MRB Chair, OEDO	Jim Lynch, Team Leader, RIII
Mary Spencer, MRB Member, OGC	Charles Coleman, Team Member, VA
Scott Moore, MRB Member, NMSS	Mark Yeager, Team Member, SC
Jennifer Opila, MRB Member, OAS Liaison, CO	Ron Linton, Team Member, NMSS
Joan Olmstead, OGC	Lisa Dimmick, NMSS
Duncan White, NMSS	Josie Piccone, NMSS
Rusty Lundberg, UT	Scott Anderson, UT
Daniel Shrum, Energy Solutions	Tom Magette, Price Waterhouse Cooper

By videoconference:

Darrell Roberts, MRB Member, Region III	Matt Learn, Region III
Binesh Tharakan, Team Member, Region IV	Randy Erickson, Region IV
Mark Shaffer, Region IV	

By telephone:

Shawn Seeley, Team Member, Region I	Susan Jenkins, SC
Linda Gersey, Team Member, Region IV	David Spackman, NMSS
Monica Ford, Region I	Pam Henderson, NMSS
Michelle Beardsley, NMSS	Stephen Poy, NMSS
Chris Einberg, NMSS	Julian Sessoms, NMSS
Lizette Roldan-Otero, NMSS	Kathy Modes, NMSS
Sara Fields, Uranium Watch	Eva Lau, WY
Gwen Galloway, UT	Ryan Johnson, UT
Russ Tophan, UT	Dean Henderson, UT
Boyd Imai, UT	

- 1. Convention.** Ms. Lisa Dimmick convened the meeting at 1:07 p.m. (ET). She noted that this Management Review Board (MRB) meeting was open to the public; three members of the public participated in this meeting. Ms. Dimmick then transferred the lead to Mr. Michael Weber, Chair of the MRB. Introductions of the attendees were conducted.
- 2. Utah IMPEP Review.** Mr. Jim 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 the team's findings for the eight indicators reviewed. The on-site review was conducted by a review team composed of technical staff members from the U.S. Nuclear Regulatory Commission (NRC), the Commonwealth of Virginia, and the State of South Carolina during the period of July 27-31, 2015. A draft report was issued to Utah for factual comment on August 24, 2015. Utah responded to the review team's findings by letter dated September 22, 2015. Mr. Lynch reported that the team found the Utah Agreement State Program (Program) satisfactory for six of the eight performance indicators reviewed. One indicator was found satisfactory, but needs improvement, and

one indicator found, unsatisfactory. There were three open recommendations from the 2011 review. The review team made one recommendation for the current review in the area of compatibility requirements.

- 3. Common Performance Indicators.** Mr. Binesh Tharakan reviewed and presented the common performance indicator, *Technical Staffing and Training*. His presentation corresponded to Section 3.1 of the proposed final IMPEP report. At the time of the review there were four technical staff and a section manager in the radioactive materials program, no vacancies, and staff were fully qualified. The review team noted that Utah needs to update its training and qualification program to include refresher training. The MRB discussed refresher training. Utah indicated that it plans to conduct training during staff meetings and attend webinars to meet refresher training requirements.

The review team found Utah's performance with respect to this indicator to be "satisfactory." The MRB agreed that Utah's performance met the criteria for a "satisfactory" rating for this indicator.

Mr. Shawn Seeley reviewed and presented 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 found that Utah performed 136 Priority 1, 2, 3, and initial inspections during the review period, of which 3 inspections were conducted overdue. Over the review period, Utah inspected greater than 20 percent of candidate reciprocity licensees in each calendar year except for 2013. The review team confirmed that inspection reports were issued timely (30 day after the inspection). In addition, the review team explain to the MRB, Utah's process for site visits prior to issuing licenses.

The review team found Utah's performance with respect to this indicator to be "satisfactory." The MRB agreed that Utah's performance met the criteria for a "satisfactory" rating for this indicator.

Mr. Seeley reviewed and presented the common performance indicator, *Technical Quality of Inspections*. His presentation corresponded to Section 3.3 of the proposed final IMPEP report. The team reviewed 23 inspection reports conducted during the review period, for four of the Utah's materials inspectors and covered a sampling of the higher priority categories of license types/inspection types, including medical, industrial, commercial, academic, research, and service licenses. The review team accompanied three inspectors prior to the onsite review. The inspections were adequate to assess radiological health, safety and security.

The review team found Utah's performance with respect to this indicator to be "satisfactory." The MRB agreed that Utah's performance met the criteria for a "satisfactory" rating for this indicator.

Mr. Charles Coleman reviewed and presented the common performance indicator, *Technical Quality of Licensing Actions*. His presentation corresponded to Section 3.4 of

the proposed final IMPEP report. The team reviewed and evaluated 27 licensing actions from the review period for five, current and former, materials license reviewers that covered a sampling of the higher priority categories of license types. Licensing action reviews were thorough, complete, consistent, and of acceptable technical quality with health, safety, and security issues properly addressed.

The review team found Utah's performance with respect to this indicator to be "satisfactory." The MRB agreed that Utah's performance met the criteria for a "satisfactory" rating for this indicator.

Mr. Tharakan reviewed and 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 evaluated 15 of 16 incidents reported to Utah. The review team also reviewed the casework for 10 allegations received by Utah including 4 allegations referred by the NRC during the review period. Utah has incident and allegation response procedures in place and it appeared that Utah was responsive to incidents and allegations. However, the procedures were not consistently followed in all cases during the review period. The lack of timely reporting of incidents to the NRC combined with insufficient receipt and closure documentation for allegations resulted in less than fully satisfactory performance for this indicator. The MRB discussed whether to make a recommendation. The team commented that because Utah's procedures are adequate for the indicator and Utah management committed to improve adherence to the procedures, a recommendation was not necessary.

The review team found Utah's performance with respect to this indicator to be "satisfactory, but needs improvement." The MRB agreed that Utah's performance met the criteria for a "satisfactory, but needs improvement" rating for this indicator.

- 4. Non-Common Performance Indicators.** Mr. Lynch reviewed and presented the findings for the non-common performance indicator, *Compatibility Requirements*. His presentation corresponded to Section 4.1 of the proposed final IMPEP report. During the review period, Utah submitted nine legislation and regulation amendment packages to the NRC for a compatibility review. One of the proposed legislation packages, Utah Senate Bill 173, also discussed in Section 4.2 addresses the financial surety required for the LLRW disposal licensee. The package was sent to the NRC on February 25, 2015. The NRC provided three comments to Utah in a letter dated March 18, 2015. These comments identified program elements that could cause conflicts, duplications, or gaps in the orderly pattern of regulations on a nationwide basis. The legislation became effective in May 2015, and the review team concluded that the Utah statutes are in conflict with the scope of Federal statutes and regulations.

The review team found Utah's performance with respect to this indicator to be "unsatisfactory." The MRB agreed that Utah's performance met the criteria for an "unsatisfactory" rating for this indicator.

Mr. Mark Yeager reviewed and presented the findings regarding the non-common performance indicator, *Low Level Radioactive Waste Disposal (LLRW) Program*. His presentation corresponded to Section 4.2 of the proposed final IMPEP report. Utah has nine qualified LLRW staff. Utah completed 183 inspection modules. The inspections were adequate to assess radiological health, safety and security of LLRW licensed activities. Licensing action reviews were thorough, complete, consistent, and of acceptable technical quality with health, safety, and security issues properly addressed. The MRB discussed the financial surety issued also described in Section 4.1 of the IMPEP report.

The review team found Utah's performance with respect to this indicator to be "satisfactory." The MRB agreed that Utah's performance met the criteria for a "satisfactory" rating for this indicator.

Mr. Ron Linton and Ms. Linda Gersey reviewed and presented the findings regarding the non-common performance indicator, *Uranium Recovery Program (UR)*. Their presentation corresponded to Section 4.3 of the proposed final IMPEP report. Utah has five qualified UR staff. Utah performed 71 field inspections during the review period. The inspections were adequate to assess radiological health, safety and security of UR licensed activities. Licensing action reviews were thorough, complete, consistent, and of acceptable technical quality with health, safety, and security issues properly addressed.

The review team found Utah's performance with respect to this indicator to be "satisfactory." The MRB agreed that Utah's performance met the criteria for a "satisfactory" rating for this indicator.

From the 2011, there were three recommendation that applied to both LLRW and UR. The recommendations and status are described in Section 2.0 of the proposed final IMPEP report. The review found that Utah had addressed each recommendation. The MRB agreed to close the three recommendations.

5. **MRB Consultation/Comments on Issuance of Report.** The review team had recommended that the Utah Agreement State Program be found adequate to protect public health and safety, but needs improvement, and not compatible with the NRC's program due to recent revisions to the statutes addressing financial surety. The review team recommended that follow-up IMPEP review take place in approximately 2 years, with a periodic meeting in 1 year, and implement a period of heightened oversight. The MRB deliberated these recommendations and determined that Utah be found adequate to protect public health and safety and not compatible with the NRC's program. The MRB supported follow-up IMPEP review take place in approximately 2 years, with a periodic meeting in 1 year. The MRB disagreed with implementing heightened oversight or monitoring. The MRB deliberated that use heightened oversight would not be effective in addressing the "not compatible" finding in Utah. Utah committed to working with the legislature to address the changes that were made to financial surety by the Utah legislature. There were two members of the public who commented on the "not compatible" finding for Utah. They believe the financial surety changes made by the legislature are adequate. A third member of the public commented on specific uranium recovery issues and the membership of Utah's advisory board.

6. **Precedents/Lessons Learned.** None applicable to this review
7. **Adjournment.** The meeting was adjourned at approximately 3:20 p.m. (ET)