



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

April 13, 2017

MEMORANDUM TO: Marc L. Dapas, Director  
Office of Nuclear Material Safety  
And Safeguards

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

Daniel S. Collins, Director  
Division of Material Safety, State, Tribal, and  
Rulemaking Programs

Darrell J. Roberts, Deputy Regional Administrator  
NRC Region III

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

SUBJECT: MINUTES: AUGUST 30, 2016, SPECIAL MANAGEMENT  
REVIEW BOARD MEETING

Enclosed are the minutes of the Special Management Review Board (MRB) meeting held on August 30, 2016, to discuss the periodic meetings held with the Colorado, Washington and Kansas Agreement State Programs. If you have comments or questions, please contact me at (301) 415-0694.

Enclosure:  
Meeting Minutes

cc: Brian Goretzki, AZ  
Organization of Agreement States  
Liaison to the MRB

MINUTES: SPECIAL MANAGEMENT REVIEW BOARD MEETING OF  
AUGUST 30, 2016

The attendees were as follows:

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

Marc Dapas, MRB Chair, NMSS  
Mary Spencer, MRB Member, OGC  
Daniel Collins, MRB Member, NMSS

Stephen Poy, NMSS  
Lisa Dimmick, NMSS

By videoconference:

Darrell Roberts, MRB Member, Region III

By telephone:

Brian Goretzki, MRB Member, AZ  
Randy Erickson, Region IV  
Binesh Tharakan, Region IV  
Linda Howell, RIV  
Jennifer Opila, CO  
Kimberly Steves, KS  
Judee Walden, KS  
David Jansen, WA

Lizette Roldan-Otero, NMSS  
Karen Meyer, NMSS  
Duncan White, NMSS  
James Jarvis, CO  
James Grice, CO  
Jason Barney, KS  
Chris Williams, WA  
Earl Fordham, WA

1. **Convention.** Ms. Lisa Dimmick convened the meeting at 1:04 p.m. (ET). She noted that this Management Review Board (MRB) meeting was open to the public. Ms. Dimmick transferred the lead to Mr. Marc Dapas, Chair of the MRB. Introductions of the attendees were conducted.
2. **Periodic Meeting Discussions:**

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

Mr. Binesh Tharakan led the discussion of the results of the periodic meeting held with the Kansas Department of Health and Environment (ADAMS Accession Number: ML16169A007). The meeting was held in Topeka on June 2, 2016. Mr. Tharakan noted that the last Integrated Materials Performance Evaluation Program (IMPEP) review of the Kansas Agreement State Program (Program) was conducted in July 2014. Program performance was found satisfactory for four of six performance indicators. The indicators, Technical Quality of Licensing Actions and Technical Quality of Incidents and Allegation Activities indicators were found satisfactory, but needs improvement. Overall, Kansas was found adequate to protect public health and safety, and compatible with the NRC's program.

Mr. Tharakan stated that in 2015, the Section Supervisor and the Program Director left the Program for employment elsewhere. A new Program Director and Section Supervisor were promoted from within the Kansas Department of Health and

Environment (Department). A replacement materials inspector with a health physics background was hired from outside the Department. The Program reported that it is very difficult to recruit and retain qualified inspectors, partially due to the State budget which has resulted in no pay increases over the past several years. The Program is concerned that two of the five current technical staff could retire in a few years and that recruiting technically qualified individuals to fill the vacancies could become a challenge.

The new Program management inherited the 10 CFR Part 37 implementation and discovered the regulations were only partially completed. At the time of the periodic meeting, the final Part 37 regulations were at the Kansas Attorney General's office for final approval. The Program implemented Part 37 through a license condition until final regulation could be adopted. On March 11, 2016, the Program issued an information notice to the affected licensees indicating that their license was being amended on March 19, 2016, to adopt 10 CFR Part 37 by reference. The affected licensees were required to be in compliance with 10 CFR Part 37 no later than March 19, 2016.

At the time of the periodic meeting, the Program had 275 licensees. There were no vacancies, no overdue inspections, no backlog of licensing actions, no rules overdue for adoption, at the time of the periodic meeting. Response to incidents and allegations has been appropriate.

The Program is addressing the one open recommendation from the 2014 IMPEP to review all active medical licenses and verify that previously approved authorized physician users have the proper board certification or training requirements, and preceptor attestation, and develop and implement a process that will ensure proper verification and documentation of user qualifications for 10 CFR 35.300 (KAR 28-35-264) uses of byproduct material.

Mr. Tharakan stated that the staff recommends that the next IMPEP review of the Kansas Agreement State Program be conducted as scheduled in July 2018. The MRB agreed with the staff's recommendation.

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

Mr. Erickson led the discussion of the results of the Periodic meeting held with the Washington Department of Health (ADAMS Accession Number: ML16208A040). The meeting was held in Olympia on May 26, 2016. Mr. Erickson noted that the last IMPEP review of the Washington Agreement State Program (Program) the previous IMPEP review (ML13212A225) was conducted the week of May 6-10, 2013. At the conclusion of the review the team found Washington's performance to be satisfactory for all performance indicators reviewed.

At the time of the periodic meeting, the Program identified succession planning as its challenge. Currently, three to four senior staff plan to retire by the time of the next IMPEP review in 2018. The Program has 336 licensees. There was one vacancy, no overdue inspections, no backlog of licensing actions, no rules overdue for adoption, and response to incidents and allegations has been appropriate. The Program is addressing the one open recommendation from the 2014 IMPEP to implement a process to ensure that radioactive material incidents involving sealed sources and devices registered by the Washington are periodically and independently assessed by the Program for generic issues and that any potential generic issues are communicated to licensees and fellow regulators in a timely manner.

Mr. Erickson stated that the staff recommends that the next IMPEP review of the Washington Agreement State Program be conducted as scheduled in May 2018. The MRB agreed with the staff's recommendation.

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

Mr. Randy Erickson led the discussion of the results of the periodic meeting held with the Colorado Department of Public Health and Environment (Department) (ADAMS Accession Number: ML16230A349). The meeting was held in Denver on June 9, 2016. Mr. Erickson noted that the last IMPEP review of the Colorado Agreement State Program (Program) was conducted in April 2014. Colorado's performance was found satisfactory for seven of eight performance indicators reviewed. The Compatibility Requirements indicator was found to be unsatisfactory, based on legislative changes made to Colorado statutes. Overall, Colorado was found adequate to protect public health and safety, and not compatible with the NRC's program due to significant changes made to State statutes.

At the time of the periodic meeting, the Program identified staff turnover and staff training as challenges. Since the 2014 IMPEP review, the Program Manager and four other staff have left the Program. Intervenor continue to challenge the Uranium Program through the filing of lawsuits that the Program must address. The dual regulation of the Uravan and Cotter sites between Colorado and the Environmental Protection Agency (EPA) has been difficult and presents another challenge.

The Program has 326 licensees. There were no vacancies, no overdue inspections, no backlog of licensing actions, and no rules overdue for adoption at the time of the periodic meeting. Response to incidents and allegations has been appropriate. The Program is addressing the legislation and working to bring the incompatibilities to the Radiation Control Act back into compatibility.

Mr. Erickson stated that the staff recommended that the next IMPEP review of the Colorado Agreement State Program be conducted as scheduled in May 2018. The MRB agreed with the staff's recommendation.

- 3. Process Changes/Comments.** NRC received feedback on the Uravan site. The Program indicated that it was at an impasse with EPA with regard to a Record of Decision. The MRB requested that NMSS staff arrange a meeting with pertinent parties to discuss a path forward.
- 4. Precedents/Lessons Learned.** None applicable to these reviews.
- 5. Adjournment.** The meeting was adjourned at 4:10 p.m. (ET).