



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

March 23, 2017

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

Tison A. Campbell, General Counsel
for Reactor and Materials Rulemaking
Office of the General Counsel

Pamela J. Henderson, Deputy Director
Division of Material Safety, State, Tribal, and
Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards

Scott A. Morris, Deputy Regional Administrator
NRC Region IV

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: February 14, 2017 NEW HAMPSHIRE
MANAGEMENT REVIEW BOARD MEETING

Enclosed are the minutes of the Management Review Board meeting held on February 14, 2017, for the New Hampshire Agreement State program. If you have comments or questions, please contact me at (301) 415-0694.

Enclosure:
New Hampshire MRB Meeting Minutes

cc: Jay Hyland, ME
Organization of Agreement States
Liaison to the MRB

MINUTES: MANAGEMENT REVIEW BOARD MEETING OF NEW HAMPSHIRE
February 14, 2017

The attendees were as follows:

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

Scott Moore, MRB Chair, NMSS
Tison Campbell, MRB Member, OGC
Pam Henderson, MRB Member, NMSS
Michelle Beardsley, Team Leader, NMSS
Donna Janda, Team Member, Region I
Stephen Poy, Team Member, NMSS

Lisa Dimmick, NMSS
Paul Michalak, NMSS
Karen Meyer, NMSS

Members from FY2017 IMPEP Training Class:

Brandon Juran, Minnesota
Dale Patrick, North Dakota
Dan Samson, New York
Kevin Siebert, Washington
James Uhlemeyer, Kansas
James Cassata, Region I
Vince Holahan, NMSS
Kathy Modes, NMSS
Bob Prince, TTC
Zahid Sulaiman, Region III
Celimar Valentin-Rodriguez, NMSS

Michael Ortiz, New Mexico
Andrew Roxburgh, South Carolina
Megan Shober, Wisconsin
Jack Tway, New Jersey
Jennifer Bishop, Region III
Monica Ford, Region I
Harral Logaras, Region III
Joe O'Hara, NMSS
Lizette Roldan-Otera, NMSS
Frank Tran, Region III

By videoconference:

Scott Morris, MRB Member, Region IV
James Trapp, Region I

Joe Nick, Region I

By telephone:

Jay Hyland, MRB Member, ME, OAS
Beth Schilke, Team Member, VA

Augustinus Ong, NH
Michael Dumond, NH

1. Convention. Ms. Lisa Dimmick convened the meeting at 1:05 p.m. (ET). She noted that this Management Review Board (MRB) meeting was open to the public. Ms. Dimmick then transferred the lead to Mr. Scott Moore, Chair of the MRB. Introductions of the attendees were conducted.
2. New Hampshire IMPEP Review. Ms. Michelle Beardsley, Team Leader, led the presentation of the New Hampshire Integrated Materials Performance Evaluation Program (IMPEP) review results to the MRB. She summarized the review and the team's findings for the seven 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) and the Commonwealth of Virginia during the period of November 14-18, 2016. A draft report was issued to New Hampshire for factual comment on December 19, 2016. New Hampshire responded to the review team's findings by e-mail dated January 23, 2017. Ms. Beardsley reported that the team found the New Hampshire Agreement State Program satisfactory for all seven performance indicators reviewed.

3. Common Performance Indicators.

- a) Ms. Beardsley reviewed and presented the common performance indicator, **Technical Staffing and Training**. Her presentation corresponded to Section 3.1 of the proposed final IMPEP report. The team reviewed New Hampshire's training procedures and staff qualification documentation, and conducted interviews with staff and management. The team found that New Hampshire has a documented training plan equivalent to NRC Inspection Manual Chapter (IMC) 1248, "Qualifications Program for Federal and State Material and Environmental Management Programs." During the review period, two technical staff members left the program and one technical staff member was hired. The one technical position that was filled had been vacant for 2 days. The other technical position that was unfilled at the time of the review has been vacant for 5 months. At the conclusion of the IMPEP review, the team learned that the Radioactive Materials Supervisor was retiring. The MRB discussed with New Hampshire management its plans for filling the Radioactive Materials Supervisor position and how the current hiring freeze might impact filling the two positions that are now vacant. New Hampshire indicated that it had appointed an acting supervisor and it plans to advertise the position.

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

- b) Ms. Beardsley reviewed and presented the common performance indicator, **Status of Materials Inspection Program**. Her presentation corresponded to Section 3.2 of the proposed final IMPEP report. New Hampshire performed three Priority 2 inspections of high dose rate (HDR) afterloader brachytherapy programs overdue at the three medical facilities. These facilities also are licensed for other modalities which have different inspection intervals as explained in the report. The team discovered that the Program did not always inspect the HDR brachytherapy program during each two year inspection of the facility. When questioned, Program management indicated that they believed it was not a requirement to inspect every modality on each inspection. The team pointed out that IMC 2800 "Materials Inspection Program" states, "...with licenses that have multiple priority codes, each part of the program shall be inspected in accordance with its assigned priority."

The team discussed whether a finding of satisfactory or satisfactory but needs improvement should be recommended due to the high risk significance of HDR treatments, however they determined that (1) because these programs were inspected subsequently in 2015 and 2016 with no issues identified, and (2) because overall New Hampshire conducted less than 10 percent of Priority 1, 2, 3, and initial inspections overdue, a finding of satisfactory would be appropriate.

The MRB discussed its concerns over the misinterpretation by New Hampshire and determined that a recommendation would help ensure improvement in this

area. As a result, the MRB recommended that New Hampshire implement a mechanism to ensure that licensees with more than one program code authorized by the license are inspected at the required frequency assigned to each program code.

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

- c) Ms. Donna Janda reviewed and presented the common performance indicator, **Technical Quality of Inspections**. Her presentation corresponded to Section 3.3 of the proposed final IMPEP report. The review team evaluated 20 of New Hampshire's inspection files, and accompanied two inspectors to evaluate inspection technique. The team found each of the inspectors to be well trained, prepared for their inspections and thorough in their reviews. Inspection casework was thorough and complete. The team found that sensitive documents were properly labeled, handled and stored. New Hampshire has appropriate survey instrumentation and lab services available.

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

- d) Ms. Beth Schilke reviewed and presented the common performance indicator, **Technical Quality of Licensing Actions**. Her presentation corresponded to Section 3.4 of the proposed final IMPEP report. The review team evaluated 33 of New Hampshire's licensing actions. The review team identified an issue in three amendments where a (medical) Radiation Safety Officer (RSO) was added to a license who did not meet the regulatory requirements of New Hampshire at the time of issuance. Specifically, the RSOs who were approved were not authorized for all modalities listed on the license. The review team performed an extent of condition review and found that this occurred in 3 out of 11 amendments to approve an RSO. During the onsite review, New Hampshire committed to adhere to regulatory requirements, as such the review team was confident that future actions would be performed in accordance with New Hampshire regulations.

The MRB expressed concerns for the three licenses authorizing RSO's who do not meet regulatory requirements. As a result, the MRB recommended that New Hampshire review the RSOs' qualifications, and implement a mechanism to ensure the named RSOs on the three licenses and all current and future medical licenses meet the regulatory requirements.

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

- e) Ms. Janda reviewed and presented the findings regarding the common performance indicator, **Technical Quality of Incident and Allegation Activities**. Her presentation corresponded to Section 3.5 of the proposed final IMPEP report. During the review period, New Hampshire reported 50 incidents, including 4 allegations, during the review period. None of the 50 incidents met the NRC reporting criteria and therefore were not reported to NRC. The review team evaluated six non-reportable incidents and confirmed that none of the incidents met the NRC event reporting criteria. Although New Hampshire had no NRC reportable events, New Hampshire conducted onsite responses to all of the reported incidents. New Hampshire's policy is to dispatch an inspector for onsite followup whenever the possibility of radioactive material exists in the public domain.

The review team also reviewed the casework for all four allegations received by New Hampshire during the review period. The NRC did not refer any allegations to the State during the review period. The team found New Hampshire to be responsive, taking prompt and appropriate action. Documentation was thorough and complete, and allegations were closed appropriately. In addition, concerned individuals' identities were properly protected.

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

4. Non-Common Performance Indicators.

- a) Ms. Beardsley reviewed and presented the non-common performance indicator, **Compatibility Requirements**. Her presentation corresponded to Section 4.1 of the proposed final IMPEP report. In a letter dated January 29, 2013, New Hampshire submitted its action plan to adopt regulations in accordance with the NRC's policy on adequacy and compatibility. This plan included the formation of a Rulemaking Committee to oversee and monitor New Hampshire's progress in timely adoption of regulation amendments, and also the plan contained provisions for the State to use other legally binding requirements in lieu of regulations in the event that regulations could not be adopted within the required 3 year timeframe. The review team found that since the 2012 IMPEP review, New Hampshire has adopted as final all overdue regulation amendments.

In addition to the discussing New Hampshire's progress in adopting overdue regulation amendments, the MRB discussed New Hampshire's "sunset" provisions and the status of regulations that are due to expire in 2017 if not renewed. The MRB requested the language of the final report be clarified for New Hampshire process for the renewal of rules. To clarify, the report was modified to indicate that New Hampshire has a system in place to begin the renewal process and track rules that are subject to expiration.

The review team found New Hampshire's performance with respect to this indicator to be "satisfactory." The MRB agreed that New Hampshire's performance met the criteria for a "satisfactory" rating for this indicator. In addition, the team recommended, and the MRB agreed, that the recommendation from the 2012 IMPEP review concerning a plan to adopt overdue regulation amendments should be closed.

- b) Mr. Stephen Poy reviewed and presented the non-common performance indicator, ***Sealed Source and Device (SS&D) Evaluation Program***. His presentation corresponded to Section 4.2 of the proposed final IMPEP report. The review team found that New Hampshire had two fully qualified SS&D reviewers. New Hampshire intends to send staff to the NRC SS&D workshop scheduled for June of 2017. New Hampshire has a fully documented training program for SS&D reviewers.

New Hampshire had two new actions that were processed during the review period. The review team found that the New Hampshire's evaluation of these cases were of high quality with health and safety issues properly addressed. The casework files contained all correspondence, engineering drawings, radiation profiles, and details of the applicant's quality assurance and quality control programs. The team noted there were no incidents over the review period involving SS&D products registered by New Hampshire.

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

5. MRB Consultation/Comments on Issuance of Report. The review team recommended, and the MRB agreed, that the New Hampshire Agreement State Program be found adequate to protect public health and safety and compatible with the NRC's program. The review team recommended, and the MRB agreed, the next IMPEP review take place in approximately 4 years. The MRB directed that a periodic meeting be held in one year (fall 2017) due to the issues discussed in staffing, inspection status, and licensing. Due to the significant progress made by New Hampshire in the adoption of overdue regulations, the team recommended, and the MRB agreed, that the period of monitoring be discontinued. The final report may be found in the ADAMS using the Accession Number ML17052A322.
6. Precedents/Lessons Learned. None applicable to this review
7. Adjournment. The meeting was adjourned at approximately 3:20 p.m. (ET)