



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

April 13, 2017

MEMORANDUM TO:

Glenn M. Tracy  
Deputy Executive Director for Materials, Waste,  
Research, State, Tribal, Compliance, Administration,  
and Human Capital Programs  
Office of the Executive Director for Operations

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

Mark L. Dapas, Director  
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: SEPTEMBER 20, 2016, SPECIAL MANAGEMENT  
REVIEW BOARD MEETING

Enclosed are the minutes of the Special Management Review Board (MRB) meeting held on September 20, 2016, to discuss the periodic meetings held with the Alabama and New York Agreement State Programs. If you have comments or questions, please contact me at (301) 415-0694.

Enclosure:  
Meeting Minutes

cc: Augustinus Ong, NH  
Organization of Agreement States  
Liaison to the MRB

MINUTES: SPECIAL MANAGEMENT REVIEW BOARD (MRB) MEETING OF  
SEPTEMBER 20, 2016

The attendees were as follows:

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

Glenn Tracy, MRB Chair, OEDO  
Mary Spencer, MRB Member, OGC  
Marc Dapas, MRB Member, NMSS  
Daniel Collins, NMSS  
Lisa Dimmick, NMSS

Paul Michalak, NMSS  
Duncan White, NMSS  
Lizette Rolden-Otero, NMSS  
Kathy Modes, NMSS  
Karen Meyer, NMSS

By videoconference:

Scott Morris, MRB Member, RIV

By telephone:

Augustinus Ong, MRB Member, NH  
Monica Ford, Region I  
Donna Janda, Region I  
David Walter, AL  
David Turberville, AL  
Geoffrey Korir, NYCHDMH

Sandra Hinkle, NYDEC  
Timothy Rice, NYDEC  
Stephen Gavitt, NYSDH  
Robert Dansereau, NYSDH  
Chris Boyd, NYCHDMH

1. **Convention.** Ms. Lisa Dimmick convened the meeting at 9:00 a.m. (ET). She noted that this MRB meeting was open to the public; no members of the public participated in this meeting. Ms. Dimmick then transferred the lead to Mr. Glenn Tracy, Chair of the MRB. Introductions of the attendees were conducted.
2. **Periodic Meeting Discussions:**

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

Ms. Monica Ford led the discussion of the results of the Periodic meeting held with the Alabama Department of Public Health (ADAMS Accession Number: ML16116A372). The meeting was held in Montgomery on March 15, 2016. Ms. Ford noted that the last Integrated Materials Performance Evaluation Program (IMPEP) review of the Alabama Agreement State Program (Program) was conducted in May 2015. Alabama's performance was found satisfactory for five of the six indicators. In addition, Alabama was found adequate to protect public health and safety and compatible with the U.S. Nuclear Regulatory Commission's (NRC) program.

The 2015 review team identified some performance issues under the indicators, Technical Quality of Inspections and Technical Quality of Licensing Actions, and attributed those issues to the lack of an updated training policy. Therefore, the review team recommended that Alabama: (1) Create a formal training qualification program equivalent to Inspection Manual Chapter 1248 and apply it to staff going through the

qualification process; (2) Require 24 hours of refresher training every 2 years for currently qualified staff; and (3) Re-evaluate the qualifications of the two newest inspection staff to determine if additional training is needed. Since the 2015 IMPEP review the Program reported that it has revised Office Policy 417 "Training Program for Radioactive Materials Staff" to make it compatible to the NRC's Inspection Manual Chapter 1248. Additionally the Program restarted the qualification process for the two newest inspectors using the revised Office Policy 417. Once the Radiation Physicist Supervisor feels the inspector is ready, a memo is sent to the Office Director for a request to have the individual accompanied for approval to perform a specified type of inspection independently. These accompaniments are performed by either the Director or Assistant Director. Lastly, the Program Office Policy 417 specifies that all qualified staff are expected to maintain their qualification by completing 24 hours of refresher training every 24 months.

At the time of the periodic meeting, the Program had 415 licensees. There had been no staff turnover since the 2015 IMPEP, no overdue inspections, no backlog of licensing actions, one rule overdue for adoption, and appropriate response to incidents and allegations. Alabama is addressing the open recommendation on the update to its training policy.

The periodic meeting team concluded that the Program continues to be an effective well maintained Agreement State program. Ms. Ford stated that the staff recommended that the next IMPEP review of the Alabama Agreement State Program be conducted as scheduled in 2019. The MRB agreed with the staff's recommendation. The MRB also concluded that a second periodic meeting in the current IMPEP review period (2015 - 2019) was not necessary unless the Regional State Agreement Officer becomes aware of issue(s) that would warrant a periodic meeting before the next IMPEP review.

### **Periodic Meeting with the New York Agreement State Program**

Ms. Donna Janda led the discussion of the results of the Periodic Meetings held with the New York City Department of Health and Mental Hygiene (NYC) in New York on May 3, 2016, the New York State Department of Environmental Conservation (DEC) in Albany on May 4, 2016, and the New York State Department of Health (DOH) in Albany on May 5, 2016, (ADAMS Accession Numbers: ML16194A481, ML16194A487 and ML16202A292). Ms. Janda stated that the last IMPEP review of the New York Agreement State Program was conducted in March 2014. The review team recommended, and the MRB agreed, that the New York's performance was found satisfactory six of eight performance indicators. The indicator Technical Quality of Incident and Allegations was improved from unsatisfactory to satisfactory in 2014. Technical Staffing and Training was found satisfactory, but needs improvement, and was unchanged from the 2011 IMPEP review. The indicator, Compatibility Requirements was found unsatisfactory and was unchanged from the 2011 IMPEP review. Much progress was made on this indicator, but New York had not yet addressed a number of overdue regulation amendments and outstanding NRC comments regarding earlier regulation packages.

New York City Department of Health and Mental Hygiene (May 3, 2016)

Since the 2014 IMPEP review, two individuals have retired from the NYC program, including the Licensing Supervisor, and five individuals were hired into the Program, including a Program Director and a Unit Supervisor. There was one vacant position at the time of the periodic meeting which was posted to be filled.

One new recommendation was made for NYC regarding staffing and training: NYC should update its staffing and training qualification program to include approved documentation of staff's qualifications. Since the 2014 IMPEP review NYC has developed and implemented a staffing and training program that is equivalent to NRC IMC 1248. Refresher training is conducted and documented for qualified staff members. Documentation of the new program was provided to the RSAO who provided feedback to the Program on the updated documents.

NYC has made significant progress in adopting NRC regulations by reference. The Program had one staffing vacancy in the licensing section at the time of periodic meeting and was actively working to fill the position. The Program continues to address the recommendations made for the NYC Program during the 2014 IMPEP review.

New York Department of Environmental Conservation (May 4, 2016)

The DEC Program is implemented by the Permits Section and the Sites Section. Since the 2014 IMPEP review, one technical staff member left the Permits Section and this position was vacant for approximately one year at the time of the periodic meeting. One technical position in the Sites Section has been vacant for approximately 3 years. The Program must receive vacancy waivers and compete with other DEC programs to fill positions.

One new recommendation was made for DEC regarding staffing: DEC should continue to pursue vacancy waivers and implement a strategy to address current and future staffing vacancies in order to maintain effectiveness. To address this recommendation, the Program continues to pursue vacancy waivers whenever possible.

DEC is addressing the prior recommendation concerning overdue regulation amendments and has made some progress in adopting NRC regulations that have gone overdue. Some of the overdue regulations are in the early stages of the rule adoption process.

DEC has completed all inspections timely since the 2014 IMPEP review and identified no backlog in issuing permits. DEC has made no changes to the inspection procedures since the last IMPEP review. At the time of the periodic meeting, the Section Chiefs had not yet performed any supervisory inspection accompaniments in 2016.

New York Department of Health (May 5, 2016)

DOH reported that there had been no staff departures since the 2014 IMPEP review. DOH reported completing four routine inspections overdue. No initial inspections were completed overdue. DOH did not complete all supervisory inspection accompaniments in 2015 due to focusing on training new inspectors. DOH plans to perform Part 37 inspections as part of the routine inspection.

At the time of the periodic meeting, DOH had approximately 1,000 radioactive materials licenses. The Program uses pre-licensing guidance for all licensing actions and recently denied one new license application based on the applicant's failure to provide information needed to complete the review. DOH is working on the backlog of overdue license renewals that have pending for greater than one year. Response to incidents and allegations has been appropriate.

One new recommendation was made for DOH regarding technical staffing and training indicator: the DOH should continue to pursue vacancy waivers and implement a strategy to address current and future staffing vacancies in order to maintain its effectiveness. At the time of the periodic meeting, the DOH had received approval to fill nine vacancy waivers and were on track to fill vacant positions by the end of June 2016. Four waivers were for new positions and the others were for promotions and moving provisional staff into permanent positions. DOH is also addressing the recommendation on the timely adoption of regulations. DOH plans to address the recommendation by adopting NRC regulations by reference. DOH is utilizing its legal staff to initiate and support this effort in the adoption process.

Ms. Janda stated that the staff recommends that the next IMPEP review of the New York Agreement State Program be conducted as scheduled in 2018. The MRB agreed with the staff's recommendation.

3. **Process Changes/Comments.** NRC received feedback on several issues. NRC staff is working to address the issues.
  - Inspection frequency in IMC 2800 for 35,100 modalities
  - Impact and unintended consequences on the waste and trucking industry of Iodine-131 solid waste from patients
  - Imports of RAM and notification to the Agreement States for all imports involving radioactive material
  - Comment period for documents
  - Provide funding for the Agreement States to attend the Environmental Risk-Assessment course
  - Status on the availability of WBL modules to accommodate x-ray machine and billing information
4. **Precedents/Lessons Learned.** None applicable to these reviews.
5. **Adjournment.** The meeting was adjourned at 11:00 a.m. (ET).