



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

February 19, 2016

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
Office of the General Counsel

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

Daniel H. Dorman, Regional Administrator
NRC Region I

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: JANUARY 14, 2016 CALIFORNIA
MANAGEMENT REVIEW BOARD MEETING

Enclosed are the minutes of the Management Review Board (MRB) meeting held on January 14, 2016, for the California Agreement State program. If you have comments or questions, please contact me at (301) 415-0694.

Enclosure:
MRB Meeting Minutes

cc: Matthew McKinley, KY
Organization of Agreement States
Liaison to the MRB

MINUTES: MANAGEMENT REVIEW BOARD MEETING OF CALIFORNIA
JANUARY 14, 2016

The attendees were as follows:

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

Glenn Tracy, MRB Chair, OEDO
Mary Spencer, MRB Member, OGC
Scott Moore, MRB Member, NMSS
Donna Janda, Team Member, Region I
David Spackman, Team Member, NMSS
Lisa Dimmick, NMSS

Dan Collins, NMSS
Duncan White, NMSS
Paul Michalak, NMSS
Jack Foster, OEDO
Stephen Poy, NMSS
Kathy Modes, NMSS

By videoconference:

Dan Dorman, MRB Member, Region I
Lizette Roldan-Otero, Team Member, Region IV
Michelle Hammond, Team Member, Region IV

Jim Trapp, Region I
Monica Ford, Region I

By telephone:

Mathew McKinley, MRB Liaison, KY, OAS
Randy Erickson, Team Member, Region IV
Mark Shaffer, Region IV
Jason Kelly, Team Member, TX
Leo Bakersmith, Team Member, FL

Gonzalo Perez, CA
John Fassel, CA
Rob Gregor, CA
Philip Scott, CA

- 1. Convention.** Ms. Lisa Dimmick convened the meeting at 1:00 p.m. (ET). She noted that this Management Review Board (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. California IMPEP Review.** Ms. Donna Janda, Team Leader, led the presentation of the California 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 States of Florida and Texas during the period of October 5-9, 2015. A draft report was issued to California for factual comment on November 13, 2015. California responded to the review team's findings by letter dated December 18, 2015. Ms. Janda reported that the team found the California Agreement State Program (the Program) satisfactory for all seven performance indicators reviewed. The review team made two recommendations for the current review in the area of sealed source and device evaluation and recommended closing the recommendation on compatibility requirements from the prior review.

Common Performance Indicators. Ms. Janda 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 Program is budgeted for 40 full-time equivalents (FTE), which includes management and staff. An additional two FTE are

provided by four Regulation Unit staff members who support the Program through regulation development. Inspection activities are conducted out of two State regional offices and two county offices. The Program has three vacancies, all of which have been vacant since July 2015. Over the review period a total of 8 staff left the Program and 10 were hired. Each of the vacancies was open on average for 6 to 9 months before they were filled.

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

Mr. David Spackman 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 the Program performed 1,003 Priority 1, 2, 3, and initial inspections during the review period, of which 38 inspections or 3.8 percent, were conducted overdue. A sampling of 30 inspection reports indicated that one inspection report was communicated to the licensee beyond the Program's goal of 30 days after the inspection exit. Over the review period, the Program inspected one-third of all candidate reciprocity licensees, thus, inspecting greater than 20 percent of candidate reciprocity licensees in each calendar year except for 2014.

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

Mr. Leo Bakersmith 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 32 inspection reports conducted during the review period, for 12 of the Program'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 eight inspectors prior to the onsite review. The inspections were adequate to assess radiological health, safety and security.

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

Ms. Lizette Roldan-Otero 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 team reviewed and evaluated 41 licensing actions from the review period for 18 of the Program's materials license reviewers that covered a sampling of the higher priority categories of license types which included broad scope, medical diagnostic and therapy, accelerator, commercial manufacturing and distribution, industrial radiography, research and development, academic, nuclear pharmacy, gauges, panoramic and self-shielded irradiators, well-logging, service providers, waste brokers,

decommissioning actions, financial assurance, and bankruptcies. Licensing action reviews were thorough, complete, consistent, and of acceptable technical quality with health, safety, and security issues properly addressed.

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

Ms. Randy Erickson 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 20 of 494 incidents reported by the Program. Each event reviewed was found to have been properly evaluated to determine the level of response required and the investigations were well coordinated and timely. Follow-up actions were performed when needed. The review team also reviewed the casework for 12 of 73 allegations received by California including 6 of 10 allegations referred by the NRC during the review period. The team found the Program to be responsive, taking prompt and appropriate action. Documentation was thorough and complete, and allegations were closed timely. Concerned individuals identities were properly protected.

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

- 3. Non-Common Performance Indicators.** Mr. Spackman reviewed and presented the non-common performance indicator, *Compatibility Requirements*. His presentation corresponded to Section 4.1 of the proposed final IMPEP report. The team reviewed the State's legislation and regulations; the Program's State Regulation Status (SRS) data sheet (which documents the program's progress toward adopting NRC regulatory amendments); the previous IMPEP report, Periodic Meeting summary, and Monitoring Call summaries; and conducted discussions with staff.

During the review period, the Program made significant progress towards the timely adoption of NRC regulatory amendments. The Program submitted 16 final regulation amendments to the NRC for compatibility review, and all of the submitted regulations were determined to be compatible. The team reviewed the Program's implementation of one recommendation made during the 2011 IMPEP review which recommended that, "the State develop and implement a detailed action plan that fully documents actions, tasks, and milestones associated with each regulation package, to better track adoption of required regulations in accordance with the current NRC policy on adequacy and compatibility." To address the recommendation, the Program made several changes to the process it uses to develop and track regulations amendments. In early 2012, the Program began developing rulemaking packages that addressed individual NRC amendments instead of developing packages by individual 10 CFR Parts, as they had done previously. The Program also developed and implemented a detailed rulemaking process flowchart and an NRC amendment adoption tracking chart to track and gauge

progress toward regulation adoption. The success of the Program in adopting so many regulation amendments during the review period demonstrated the effectiveness of the Program's approach to addressing this recommendation.

The MRB discussed the two longstanding overdue amendments concerning timeliness in decommissioning and radiological criteria for license termination and whether these issues created gaps in the National Materials Program. Although California can implement the regulations via license conditions or orders when needed, the Program is unable to adopt these requirements due to a State court decision. The Program is currently preparing an analysis for NRC's review to demonstrate that the State is implementing compatible requirements to meet the essential objectives of these regulations. In addition the MRB discussed a known compatibility issue regarding low-level radioactive waste (LLRW) disposal requirements where California's "Radiation Control Law" is more restrictive than 10 CFR 61.41 regarding releases of radioactivity to the general environment. The State is required to adopt an essential identical requirement to NRC's 10 CFR 61.41. This incompatibility was initially noted in an NRC letter to California in 2007. The Program is not aware of any prospective applicant for a LLRW disposal facility license in California; consequently, California's more restrictive requirements are not currently in use.

The review team found California's performance with respect to this indicator to be "satisfactory." The MRB agreed that California's performance met the criteria for a "satisfactory" rating for this indicator. In addition, the MRB agreed to close the 2011 recommendation.

Mr. Jason Kelly reviewed and presented the non-common performance indicator, *Sealed Source and Device Evaluation Program (SS&D)*. His presentation corresponded to Section 4.2 of the proposed final IMPEP report. In evaluating this indicator, the review team considered the three sub-elements, including (1) Technical Staffing and Training, (2) Technical Quality of the Product Evaluation Program, and (3) Evaluation of Defects and Incidents Regarding SS&Ds. The team reviewed 14 SS&D registries processed during the review period, which included a review of the work of 7 of the Program's SS&D reviewers. The review team made two recommendations, one concerning a plan to complete SS&D transfers, and the second, implement a procedure for reviewing the implementation of the manufacturer/distributor's quality assurance and quality control program commitments.

The review team found California's performance with respect to this indicator to be "satisfactory." The MRB agreed that California's performance met the criteria for a "satisfactory" rating for this indicator. In addition, the MRB agreed to open the two SS&D recommendations.

4. **MRB Consultation/Comments on Issuance of Report.** The review team recommended, and the MRB agreed, that the California 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, to discontinue the period of monitoring. California sustained improved performance in the area of rule development. The review team recommended, and the MRB agreed, the next IMPEP review take place in approximately four years with a periodic meeting mid-cycle.

6. **Precedents/Lessons Learned.** None applicable to this review
7. **Adjournment.** The meeting was adjourned at approximately 2:30 p.m. (ET)