



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

January 14, 1997

MEMORANDUM TO:

Hugh L. Thompson, Jr.
Deputy Executive Director for
Regulatory Programs

Richard L. Bangart, Director
Office of State Programs

Carl J. Paperiello, Director
Office of Nuclear Material Safety
and Safeguards

Karen D. Cyr, General Counsel

Denwood F. Ross, Acting Director
Office for Analysis and Evaluation
of Operational Data

FROM:

Paul H. Lohaus, Deputy Director
Office of State Programs

SUBJECT:

INTEGRATED MATERIALS PERFORMANCE EVALUATION
PROGRAM (IMPEP) REVIEW OF NEBRASKA RADIATION
CONTROL PROGRAM

This memorandum transmits to the Management Review Board (MRB) a proposed final report (Attachment 1) documenting the IMPEP review of the Nebraska Radiation Control Program. The review of the Nebraska program was conducted by an interoffice team during the period July 15-19, 1996. The team issued a draft report to Nebraska on October 16, 1996, for factual comment. Nebraska factual comments, received by letter dated November 1, 1996, from Dr. Mark B. Horton, Director, Department of Health (Attachment 2), and by letter dated December 13, 1996, from Ms. Teresa M. Hampton, Assistant Agency Counsel, and Ms. Cheryl Rogers, Program Manager, Low-Level Radioactive Waste Program (Attachment 3), have been incorporated into the proposed final report. See (Attachment 4) for the team's response to the State's factual comments.

The review team found the State's performance, with respect to the common and non-common performance indicators, to be satisfactory, or satisfactory with recommendations for improvement, with two exceptions. The team found the State's performance unsatisfactory in Section 3.2, Technical Staffing and Training, due to continued difficulties in maintaining adequate staffing, and Section 4.1.2, Status and Compatibility of Regulations, since the program did not adopt regulations equivalent to 10 CFR Part 36. Subsequent to the review (by letter dated November 1, 1996), the State informed the team that the State had adopted equivalent 10 CFR Part 36 regulations, that became effective October 30, 1996. Therefore, the Nebraska regulations are currently compatible

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with those of NRC. By letter of September 10, 1996, the State also provided the team with a completion schedule for the overdue inspections, notification of delegation of signature authority to the Radioactive Materials program manager, and a status of draft regulations (Attachment 5). By letter of August 6, 1996, the State informed the team that review and issuance of 22 outstanding enforcement letters prepared as a result of contractor inspections had been completed (Attachment 6).

The team observed that the State experienced difficulties identified during the review period including: (1) a backlog of nine core inspections; (2) inspections pending supervisory review and notification of the findings to the licensee; (3) inspection reports were incomplete; (4) a backlog of 101 licensing actions; (5) no incident reporting to NRC since June 1995; (6) incomplete documentation of incident response and response to allegations; (7) regulations required for compatibility not adopted in timely fashion; and (8) no "get-well" plan. The team concluded that the primary root causes for the deficiencies found in the program were directly attributable to (1) the need for management improvement to effectively assess and respond to the reduced level of performance in the Agreement State program, and (2) lack of current, written, program procedures or failure of staff to follow these procedures.

Based on these indicators, the review team recommends that the MRB find the Nebraska program to be adequate to protect public health and safety, but needs improvement and compatible with the NRC's regulatory program. Due to the significance and number of deficiencies found in the Nebraska program that included unsatisfactory for the common indicator Technical Staffing and Training, the team recommends a period of probation for a duration to be established after consultation with Nebraska radiation control program management.

The MRB meeting to consider the Nebraska report is scheduled for **Wednesday, January 22, 1997, from 1:00 a.m. to 3:00 p.m. in Room O-6-B-11.** In accordance with Management Directive 5.6, the meeting is open to the public. The agenda for that meeting is attached (Attachment 7).

If you have any questions prior to the meeting, please contact me at 415-2326 or Patricia Larkins at 301-415-2309.

Attachments:

As stated

cc: D. Thomas, NE

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**Agenda for Management Review Board Meeting
Wednesday, January 22, 1997, 1:00 a.m., OWFN, 6-B-11**

1. Convention. MRB Chair convenes meeting. (HLThompson)
2. Old Business - Approval of previous MRB Minutes - Iowa (KSchneider)
3. New Business - Consideration of Nebraska IMPEP Report.
 - A. Introduction of Nebraska IMPEP Team Members. (PLarkins)
 - B. Introduction of Nebraska Representative and Other State Representatives Participating. (PLarkins)
 - C. Findings Regarding Nebraska Program. (IMPEP Team)
 - Technical Staffing/Training
 - Status of Inspection Program
 - Technical Quality of Licensing
 - Technical Quality of Inspections
 - Response to Incidents/Allegations
 - Legislation and Regulations
 - Low Level Radioactive Waste Program
 - D. Questions. (MRB Members)
 - E. Comments from State of Nebraska. (Deb Thomas)
 - F. MRB Consultation/Comments on Issuance of Report. (HLThompson)
4. Status of Upcoming Reviews. (KSchneider)
5. Adjournment. (HLThompson)

Invitees:

Hugh L. Thompson, MRB Chair, DEDR
Karen Cyr, MRB Member, OGC
Carl Paperiello, MRB Member, NMSS
Richard L. Bangart, MRB Member, OSP
Denwood Ross, MRB Member, AEOD
Roland Fletcher, Agreement State Liaison to MRB,
State of Maryland
Deb Thomas, State of Nebraska
Brian Hearty, State of Nebraska
Paul Lohaus, OSP
Kathleen Schneider, OSP
Patricia Larkins, IMPEP Team Leader, OSP
Jenny Johansen, IMPEP Member, RI
Richard Blanton, IMPEP Member, OSP
Ralph Cady, IMPEP Member, RES
Charles Mattson, IMPEP Member, State of Colorado