

September 1, 2005

MEMORANDUM TO: Management Review Board Members:

Martin J. Virgilio, EDO
Karen D. Cyr, OGC
Patricia K. Holahan, NMSS
Paul H. Lohaus, STP

FROM: Jennifer Tobin, Health Physicist */RA/*
Office of State and Tribal Programs

SUBJECT: MINUTES: JUNE 14, 2005, SPECIAL MRB MEETING
TO DISCUSS RESULTS OF PERIODIC MEETINGS WITH
STATES, THE STATUS OF THE KANSAS AGREEMENT STATE
PROGRAM, AND A PROPOSED NEW POLICY FOR IMPEP
REFRESHER TRAINING

Attached are the minutes of the Special Management Review Board (MRB) meeting held on June 14, 2005 to discuss the results of recent periodic meetings with the States of Washington and Florida, the status of the Kansas Agreement State Program, and a proposed new policy for Integrated Materials Performance Evaluation Program (IMPEP) refresher training. If you have comments or questions, please contact me at (301) 415-2328.

Attachment:
As stated

cc: Craig Jones, OAS Liaison, UT

Management Review Board Members

September 1, 2005

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF JUNE 14, 2005

These minutes are presented in the same general order as the items were discussed in the meeting. The attendees were as follows:

Martin Virgilio, MRB Chair, EDO
Patricia Holahan, MRB Member, NMSS
Dennis Rathbun, STP
John Zabko, STP
Christopher Miller, EDO

Paul Lohaus, MRB Member, STP
Karen Cyr, MRB Member, OGC
Frank Costello, EDO
Osiris Siurano, STP
Jenny Tobin, STP

By teleconference:

Craig Jones, UT (OAS Liaison)
Gary Robertson, WA
Terry Frazee, WA
William Passetti, FL
Thomas Conley, KS

Mike Stevens, FL
Sheri Minnick, RI
Vivian Campbell, RIV
Kathleen Schneider, STP

1. **Convention.** Mr. John Zabko convened the meeting at 2:02 p.m. He noted that this Management Review Board (MRB) meeting was open to the public. However, no members of the public attended this meeting.

2. **New Business.**

A. Periodic meetings discussion.

Periodic meeting with the State of Washington. Ms. Vivian Campbell led the discussion of the results of the periodic meeting with the State of Washington (ADAMS: ML050700061). The meeting was held on February 8, 2005. Ms. Campbell reported that the one recommendation from the previous Integrated Materials Performance Evaluation Program (IMPEP) review, conducted September 8-12, 2003, was discussed during the meeting. The review team recommended that the State develop and implement a plan to adequately and consistently address the financial assurance for decommissioning portions of material license regulations. In response to this recommendation, the State management presented a plan to the MRB on December 10, 2003, outlining the steps to address the financial assurance requirements. During the meeting, State management informed the NRC staff that the program has been successfully implemented. This will be reviewed at the next IMPEP.

Contributing to the strength of Washington's program is the qualified and experienced staff. There are presently no staff vacancies and no turnover within the program; there are no inspection backlogs. There are no organizational changes anticipated at this time. The program was moved to a new physical location after the periodic meeting took place. Retaining staff is becoming a challenge due to the lower salaries when compared to the private sector. Another challenge for the future is the funding for the waste program due to the decrease in volume of waste being sent to the Low Level Waste sites in Washington. The State noted that it is working on the Medical Use of Byproduct Material amendment but will not meet the April 24, 2005, implementation date. The State has been waiting for the training and education (T&E) issue for medical licensees to be resolved. The proposed amendment's review is expected to be completed in October 2005.

Office management discussed generic concerns about the cost and availability of NRC training courses required to maintain a qualified staff. A suggestion for resolution included the development and implementation of web-based courses. The MRB noted that other States have made this request as well and that the NRC continues to explore alternatives for addressing this need. The State also expressed concerns on a training course provided by NRC staff. The MRB asked if these concerns were provided to the appropriate Office of Nuclear Material Safety and Safeguards (NMSS) staff so corrective action could be taken. The MRB was informed that NMSS already has the information and corrective action has been taken.

The State is involved in the remediation of the Dawn Mining Company site. There are concerns with groundwater issues at this site. The Washington Waste Management Section is in the process of renewing US Ecology's license and expects to complete the review of the draft license in three months. No other performance issues were identified. The next IMPEP review is scheduled for FY 2007.

Periodic meeting with the State of Florida. Ms. Sheri Minnick led the discussion of the results of the periodic meeting with the State of Florida (ADAMS: ML050480021). The meeting was held on February 3, 2005. There were no recommendations resulting from the February 2003, IMPEP review. There had been no changes in organization since the last IMPEP. The Program's strength continues to be its adequate Department of Health, legislative, legal and administrative support, as well as their good laboratory and field equipment, stable funding and stable, trained, and experienced staff. There are no inspection or licensing backlogs, and incidents and allegations are appropriately processed. No weaknesses and/or performance issues were identified. The State has five proposed amendments to regulations that are still in the legislative process. The State submitted a petition for rulemaking for reviewing the compatibility category of the General License (GL) rule dated June 3, 2005. The MRB was informed that this petition was submitted to the Office of the Secretary of the Commission. The MRB commended the State for its support to IMPEP by providing staff to participate in other States' reviews and for running such a good program. The next IMPEP review is currently scheduled for FY 2007.

3. **Recommendation to put the Kansas Program on Heightened Oversight.** The staff requested MRB approval to place the Kansas Agreement State Program on Heightened Oversight due to the State's slow progress in developing rules compatible with the NRC. During the 2002 IMPEP review, it was found that 20 regulations were overdue for adoption. Since that time, there are two additional regulations that have come up for adoption.

During the MRB meeting the State noted that, in response to the concerns expressed about tardiness of regulation submission, it has dedicated one staff person to work on the 22 regulation packages that are now overdue and put this matter in the highest of priorities. The State recently submitted 10 rules packages containing the 22 amendments. The State was informed that the status of these regulations, as of June 14, 2005, is as follows:

State Part/Rule	10 CFR Equivalent Rule	Status
2	--	under NRC's review
Licensing of radioactive materials	--	under State Attorney General's Office review
4	20	under State Attorney General's Office review
6	35	under NRC's review
7	34	under State Attorney General's Office review
10	19	under NRC's review
11	39	under NRC's review
12	36	under NRC's review
13	--	under NRC's review
Transportation of Radioactive Materials	--	The State plans to adopt this rule by reference.

The review of rules by the State Attorney General's Office is the last step before sending the rule for NRC's review. In summary, six rules have been already sent to NRC for review, three are being reviewed by the Attorney General's office and one rule, the Transportation of Radioactive Material due in October 2007, will be adopted by reference and will be included in the regulation packages that will be submitted shortly for NRC review. To clarify the procedure that a regulation must go through to become law in Kansas, the State provided a walk-through (as shown below).

KS Department—>KS Administration—>KS Attorney General—>NRC—>public comment period—> hearing—>public register—>adopted law

Rules become final 15 days after published in the State Register.

The MRB commended the State on their commitment and significant progress towards getting the State regulations to be current and accurate. After a brief discussion, although noting the State's progress in adopting the necessary rules, the MRB agreed that the program be placed on heightened oversight. This decision was made to provide for increased NRC monitoring and awareness. The State committed to keep working on the overdue regulations and noted that the rules will be resubmitted for NRC's review if, at anytime during the process following NRC's initial review, changes to the rules are introduced. A short discussion on the program's funding was held. The program noted that it will be totally fee funded within the next months.

4. **Proposed Implementation of New Policy for IMPEP Refresher Training.** The staff recommended a modification of the IMPEP refresher training. Presently, all staff must participate in the refresher training every two years regardless of the level of activity in

the program. The proposed refresher training would only be in effect for those staff members going out on an IMPEP review in the upcoming year, that did not go out on an IMPEP review in the previous year, or did not receive IMPEP new member training during that year. This revision would decrease the redundancy of training and thus decrease the cost in dollars as well as in staff time (10 people as opposed to 30-40 “trainees”). The MRB briefly discussed and supported this change. The MRB directed that Management Directive 5.10 be modified accordingly.

5. **Precedents/Lessons Learned.** No precedents that will be applied to the IMPEP process in the future were established by the MRB during this meeting.
6. **Adjournment.** The meeting was adjourned at approximately 3:52 p.m.