

September 12, 2006

MEMORANDUM TO: Management Review Board Members:

Martin J. Virgilio, DEDMRS
Jack R. Strosnider, NMSS
Karen D. Cyr, OGC
Janet R. Schlueter, STP

FROM: Jennifer C. Tobin, Health Physicist */RA A. McCraw for/*
Office of State and Tribal Programs

SUBJECT: MINUTES: AUGUST 14, 2006 MASSACHUSETTS MRB
MEETING

Enclosed are the minutes of the Management Review Board meeting held on
August 14, 2006. If you have comments or questions, please contact me at 301-415-2328.

Enclosure:
As stated

cc: Steve Collins, Illinois
Organization of Agreement States
Liaison to the MRB

Robert Walker, Director
Radiation Control Program
Massachusetts Department
of Public Health

Management Review Board Members

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF AUGUST 14, 2006

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
Jack Strosnider, MRB Member, NMSS
Dennis Rathbun, STP
Aaron McCraw, STP
Sheri Minnick, Team Member, RSAO/RI
John Jankovich, Team Member, NMSS
Andrew Mauer, OEDO

Janet Schlueter, MRB Member, STP
Karen Cyr, MRB Member, OGC
Kevin Hsueh, Team Leader, STP
Jennifer Tobin, STP
Shawn Smith, Team Member, STP
Richard Struckmeyer, NMSS

By Teleconference:

Steve Collins, OAS Liaison, IL
Robert Walker, MA
Salifu Dakubu, MA

Shawn Seeley, Team Member, ME
Robert Gallagher, MA
Michael Whalen, MA

1. **Convention.** Mr. Aaron McCraw convened the meeting at 1:06 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. Mr. McCraw asked the MRB to consider the minor amendments that had been made to the report after transmittal to them. Given a brief time to read, the MRB concluded that the changes were small and should be included in the final IMPEP report. He then transferred the lead to Mr. Martin Virgilio, Chair of the MRB. Introductions of the attendees were conducted.
2. **Massachusetts IMPEP Review.** Dr. Kevin Hsueh, team leader, lead the presentation of the Massachusetts Integrated Materials Performance Evaluation Program (IMPEP) review results to the MRB. The on-site review was conducted by an interoffice team during the period of May 15-19, 2006. He summarized the review and noted the findings. He first noted that of the four recommendations made during the 2002 IMPEP review, one is closed, one is closed in part, and the other two recommendations remain open.

Common Performance Indicators. Mr. Hsueh presented the findings regarding the common performance indicator, Technical Staffing and Training. His presentation corresponded to Section 3.1 of the proposed final IMPEP report. The review team found Massachusetts' performance with respect to this indicator to be "satisfactory" and made one recommendation. The review team recommended that the Commonwealth pursue adequate funding to support and implement the staffing plan which is needed to meet current program demands as well as the projected increase in workload. The Commonwealth has reduced their inspection frequencies to those of NRC Inspection Manual Chapter 2800 to maximize the use of staff time. The program currently has one vacancy. The number of licensees in the Commonwealth is increasing and the Increased Controls (IC) inspections add additional workload. The MRB recognized the program's fragility with the increased workload and the challenges involving the recommendations on the other indicators. The MRB agreed that Massachusetts' performance met the standard for a "satisfactory" rating for this indicator with the caveat

that appropriate language be added to the cover letter transmitting the final IMPEP report to the Commonwealth. This language should identify that having adequate staffing is a cross-cutting issue and is necessary to address and close recommendations made at this and the previous reviews.

Ms. Shawn Smith presented the findings regarding the common performance indicator, Status of Materials Inspection Program. Her presentation corresponded to Section 3.2 of the proposed final IMPEP report. The review team found Massachusetts' performance with respect to this indicator to be "satisfactory" and made no recommendations. Inspections for increased control of sources was also discussed. The Commonwealth has started to plan for the initial inspections and estimates that approximately half of the licensees receiving the NRC Order are in the higher risk category. These higher risk license inspections are scheduled to be completed within the applicable six-month window. The MRB agreed that Massachusetts' performance met the standard for a "satisfactory" rating for this indicator.

Mr. Shawn Seeley presented the findings regarding the common performance indicator, Technical Quality of Inspections. His presentation corresponded to Section 3.3 of the proposed final IMPEP report. The review team found Massachusetts' performance with respect to this indicator to be "satisfactory" and made no recommendations. The MRB agreed that Massachusetts' performance met the standard for a "satisfactory" rating for this indicator.

Ms. Sheri Minnick presented the findings regarding 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 found Massachusetts' performance with respect to this indicator to be "satisfactory" and made one recommendation. The review team recommended that the Commonwealth address each of the licensing cases where increased controls are needed by either issuing license amendments to decrease possession limits or issuing license amendments to include increased controls. However, upon the team's review of the prioritization methodology, Commonwealth staff found that the amendment of twenty affected licensees had been overlooked during the initial review. Since the time of the review, all except one have received license amendments or have reduced possession limits to be below threshold quantities. The MRB recognized the responsiveness of the staff to begin this process while the review team was still on site. The MRB complimented the Commonwealth on the well-documented closure of 14 formerly licensed sites that were completed during the review period. The MRB agreed that Massachusetts' performance met the standard for a "satisfactory" rating for this indicator.

Mr. Seeley 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 team found Massachusetts' performance with respect to this indicator to be "satisfactory, but needs improvement," made one recommendation, and kept one recommendation from the 2002 review open. The review team recommended that the Commonwealth take appropriate and timely follow-up actions commensurate with the potential health and safety significance for all events. The review team also recommended that the Commonwealth take necessary steps to ensure that all reportable events are submitted and updated to NRC in

accordance with STP Procedure SA-300 (open from 2002). In 2003, there were two events of potential health and safety significance that were not acted on in a timely manner. One was identified as having occurred on the same date that the program relocated to a new office building. The MRB expressed concern about the timeliness of responding to and reporting events. The review team responded by noting the hundreds of cases that the Commonwealth did respond to in a timely manner and that the two outlying events occurred early in the review period. The Commonwealth added that event reporting timeliness was also a function of when the licensee notified the program. The MRB inquired as to whether the Nuclear Material Events Database (NMED) entries for Massachusetts are up-to-date. The Commonwealth committed to checking the status of the NMED entries and providing the results to the IMPEP team leader for distribution to the MRB. The MRB also inquired as to the best methods for the NRC to be made aware if the Commonwealth has untimely reporting in the future. The MRB agreed that Massachusetts' performance met the standard for a "satisfactory, but needs improvement" rating for this indicator.

Non-Common Performance Indicators. Ms. Shawn Smith presented the findings regarding the non-common performance indicator, Compatibility Requirements. Her presentation corresponded to Section 4.1 of the proposed final IMPEP report. The review team found Massachusetts' performance to be "satisfactory, but needs improvement" and kept the one recommendation from the 2002 review open. The review team recommends that the Commonwealth adopt regulations necessary for compatibility within the required three-year time frame and submit alternate forms of legally binding requirements for NRC review following the guidance in STP Procedure SA-201. The review team determined that 16 regulations had not been adopted within the three-year time frame and still have not been submitted to the NRC for review. The Commonwealth noted that the volume of the package extended the time-line needed for upper management and legal review and expects to transmit the whole package to the NRC for review before the end of August. The MRB expressed concern regarding the timely submission of the Commonwealth's applicable regulations and license conditions and recommended that language transmitting these concerns be added to the cover letter transmitting the report to the Commonwealth. The MRB agreed that Massachusetts' performance met the standard for a "satisfactory, but needs improvement" rating for this indicator.

Dr. John Jankovich led the discussion of 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 Massachusetts' performance to be "satisfactory" for this indicator, identified two good practices, made two recommendations, and kept part of a 2002 recommendation open. The review team noted that the program maintains a records filing system, which provides for each SS&D registration, a most readily accessible historical overview of all the current as well as the previous actions. The review team also noted that in performing the SS&D safety evaluations, the program uses a checklist for each case to assure that all aspects of the safety evaluation had been satisfactorily completed. The review team recommended that the Commonwealth make corrections to registration certificate MA-0116-102-B, develop and document a set of formal qualification requirements for SS&D reviewers, and that the Commonwealth issue inactivated SS&D

registration certificates in the future with full text. The MRB agreed that Massachusetts' performance met the standard for a "satisfactory" rating for this indicator.

Dr. Hsueh noted that although the Massachusetts program has Low-Level Radioactive Waste (LLRW) disposal authority, NRC has not required States to have a program for licensing a LLRW facility unless such a facility is proposed within their boundaries. There are no plans for a LLRW disposal facility in Massachusetts, so this indicator was not reviewed.

MRB Consultation/Comments on Issuance of Report. Dr. Hsueh concluded, based on the discussion and direction of the MRB, that the Massachusetts program be rated "satisfactory" for five of the performance indicators reviewed. The review team found the Massachusetts' performance to be "satisfactory, but needs improvement" for the following two indicators: Technical Quality of Incident and Allegation Activities and Compatibility Requirements. The review team noted that a finding of "unsatisfactory" for the Compatibility indicator was discussed. However, the review team believed that the lack of timely regulation amendments did not appear to negatively impact the performance of the program. After consulting the criteria in Management Directive 5.6, the review team found the "satisfactory, but needs improvement" rating to be the best representation of the program's performance for this indicator. The MRB shared the review team's concerns about the compatibility of the program. The MRB also reiterated concern about timely event reporting. These two items of concern will be transmitted in the cover letter when the IMPEP report is sent to the Commonwealth. Accordingly, the review team recommended that the Massachusetts Agreement State Program be found adequate to protect public health and safety and compatible with NRC's program. After a brief discussion considering monitoring and more frequent contacts between the NRC and the Commonwealth, the review team recommended and the MRB agreed that the next full IMPEP review will take place in approximately four years.

Comments. Mr. Virgilio thanked the team for a job well done and the Commonwealth for its cooperation. Mr. Walker from the Commonwealth of Massachusetts, thanked the MRB and the IMPEP review team for their work. Mr. Seeley thanked the MRB for the opportunity to participate in this review and noted the benefits of seeing another State's program.

3. **Precedents/Lessons Learned.** No precedents that will be applied to the IMPEP process in the future were established by the MRB during this review.
4. **Adjournment.** The meeting was adjourned at approximately 2:22 p.m.