

MINUTES: MANAGEMENT REVIEW BOARD MEETING OF APRIL 30, 2007

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

Martin Virgilio, MRB Chair, OEDO
Karen Cyr, MRB Member, OGC
Aaron McCraw, Team Member, FSME/DMSSA
Dennis Sollenberger, Team Leader, FSME/DMSSA
Tomas Herrera, Team Member, FSME/DMSSA
Patrick Moulding, OGC

Charles Miller, MRB Member, FSME
Duncan White, FSME/DMSSA
Andrea Kock, OEDO
Kim Karcagi, FSME/DMSSA
Monica Orendi, FSME/DMSSA
Michael Spencer, OGC

By Videoconference:

Bruce Mallett, MRB Member, RIV

By Tele-conference:

Barbara Hamrick, OAS Liaison, CA
Robert Gallagher, Team Member, MA
William Passetti, FL
Debbie Gilley, FL
Pam Henderson, RI

Michael Stephens, FL
Paul Vause, FL
Charles Hamilton, FL
Cynthia Becker, FL

- 1. Convention.** Mr. Aaron McCraw convened the meeting at 3:05 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. He then transferred the lead to Mr. Martin Virgilio, Chair of the MRB. Introductions of the attendees were conducted.
- 2. Florida IMPEP Review.** Dr. Dennis Sollenberger, team leader, led the presentation of the Florida Integrated Materials Performance Evaluation Program (IMPEP) review results to the MRB. He summarized the review and noted the findings. He noted that there were no recommendations made during the 2003 IMPEP review. The on-site review was conducted by an interoffice team during the period of February 12-16, 2007. The review team's general approach for conduct of this review consisted of: (1) examination of Florida's response to the questionnaire; (2) review of applicable Florida statutes and regulations; (3) analysis of quantitative information from the State's database; (4) technical review of selected regulatory actions; (5) nine field accompaniments of Florida inspectors; and (6) interviews with staff and management to answer questions or clarify issues. The review team evaluated the information that it gathered against the IMPEP performance criteria for each common and applicable non-common indicator and made a preliminary assessment of the Florida's Agreement State Program's (the Bureau's) performance.

The review team issued a draft report on March 15, 2007, received Florida's factual comments by letter dated March 30, 2007, from William A. Passetti, Chief, Bureau of Radiation Control, and submitted a proposed final report to the MRB on April 18, 2007.

Common Performance Indicators. Dr. Sollenberger 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 Florida's performance with respect to this indicator to be "satisfactory" and made no recommendations. A short discussion on the Bureau's turnover rate was held. The MRB commended the Bureau's emphasis on training programs and on-the-job training, which have successfully addressed the issue of the Bureau's needing to expediently fill vacancies with individuals with little to no experience in the field. The MRB agreed that Florida's performance met the standard for a "satisfactory" rating for this indicator.

Dr. Sollenberger, for Ms. Donna Janda, presented the findings regarding 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 Florida's performance with respect to this indicator to be "satisfactory." There was a discussion on the low percentage of overdue inspections and the timeliness of communicating inspection findings to licensees. A question was raised as to whether or not the State communicates with other States regarding reciprocity requests from individuals with questionable past records. The Bureau indicated that they work closely with neighboring States in identifying those problematic licensees in Florida as well as in those other States that may seek reciprocity in States other than their permanent licensed States. It was noted by an MRB participant that the calculations of various inspections performed presented in the draft IMPEP report should be reviewed to confirm the accuracy of those totals. The MRB agreed that Florida's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Robert Gallagher 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 Florida's performance with respect to this indicator to be "satisfactory" and made one recommendation. The review team recommended that the State evaluate the effectiveness of their existing procedures and policies for marking and handling sensitive information and modify the existing procedures or policies, if needed, to ensure that documents containing sensitive information are appropriately marked in a consistent manner. Florida staff agreed with the recommendation and continues to evaluate its procedures to ensure that outgoing as well as incoming documents are marked appropriately. There was discussion on a particular sentence in the draft IMPEP report that identifies an inspector's failure to observe a violation of Florida's regulation equivalent to 10 CFR 20.1802. As a way to address Florida's comment on the context of this sentence in the draft IMPEP report, the MRB participants agreed that the sentence should be revised. This revision should be made to transition the focus on classifying this finding as an "isolated incident" rather than a failure made on the part of one Florida inspector, which could be perceived as a programmatic issue in the Bureau. The MRB agreed that Florida's performance met the standard for a "satisfactory" rating for this indicator.

Mr. McCraw, for Ms. Michelle Beardsley, presented the findings regarding the common performance indicator, Technical Quality of Licensing Actions. His presentation corresponded to Section 3.4 of the proposed final IMPEP report. The review team found Florida's performance with respect to this indicator to be "satisfactory" and made no recommendations. There was a question raised by an MRB participant regarding the

frequency of States being issued material licenses that have authorization limits that exceed the amount of material that licensees actually possess. This, in turn, would trigger the licensees needing to have emergency plans in place to respond to releases of material. It appears that in the circumstances where there have been licenses issued with authorization limits that well exceed actual possession limits, most States have quickly addressed the problem by restricting the possession limits of material below the threshold requiring an emergency plan. The MRB agreed that Florida's performance met the standard for a "satisfactory" rating for this indicator.

Mr. McCraw also 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 found Florida's performance with respect to this indicator to be "satisfactory" and made no recommendations. An MRB participant recommended that the standard language in future IMPEP reports regarding initial responses to incidents and allegations should be revisited to possibly include a statement about the level of effort instilling public confidence as well as being commensurate with the health and safety significance. One MRB participant commended the Bureau for reporting all events that they respond to in the Nuclear Material Events Database and noted that this reporting is very helpful to other States. Another MRB participant also commended the State for its excellence in responding to weather-related events, such as hurricanes, and recognized that the draft IMPEP report does not discuss the State's abilities to control sources during such events. The MRB member recommended that additional text be included on the control of sources in weather-related events in the next revision of Management Directive (MD) 5.6. The IMPEP project manager committed to considering this recommendation during MD 5.6's next revision. The MRB agreed that Florida's performance met the standard for a "satisfactory" rating for this indicator.

Non-Common Performance Indicators. Mr. McCraw presented the findings regarding the non-common performance indicator, Compatibility Requirements. His presentation corresponded to Section 4.1 of the proposed final IMPEP report. The review team found Florida's performance to be "satisfactory, but needs improvement" and made no recommendations. During the on-site review, the Bureau submitted to the NRC for a compatibility review, on February 14, 2007, a package of final regulations which included eight of nine overdue amendments and two other amendments. An MRB participant recommended that the text in the draft IMPEP report be modified to clarify that the ten submitted amendments were finalized and put in place in the State, but just had not gone through an NRC review at the time of the IMPEP. There is currently one overdue regulation, "Medical Use of Byproduct Material," 10 CFR Part 20, 32, and 35 amendments (67 FR 20249), but the Bureau informed the MRB that the regulation is on the fast track for being adopted in the next few months. The MRB agreed that Florida's performance met the standard for a "satisfactory, but needs improvement" rating for this indicator.

Mr. Tomas Herrera presented the findings regarding 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 Florida's performance to be "satisfactory" and made no recommendations. An MRB participant commended the Bureau's implementation of a double concurrence

approach, where two senior reviewers will both perform technical and concurrence reviews for any new application or amendment request, as being effective and beneficial for new SS&D reviewers. The Bureau was also commended for its efforts in promoting comprehensive training and on-the-job training for new reviewers, which is viewed as a good display of knowledge transfer. As a way to address Florida's comment regarding removal of the discussion of a finding on the Bureau's internal procedure of retaining signed off checklists in the SS&D and licensing files in the body of the draft IMPEP report and rather keeping the finding in the Appendix, the MRB agreed with the team's decision to keep the finding in the report. The MRB agreed that Florida's performance met the standard for a "satisfactory" rating for this indicator.

Dr. Sollenberger noted that there are no plans for a Low-Level Radioactive Waste Disposal facility in Florida therefore, the review team did not review the non-common performance indicator, Low-Level Radioactive Waste (LLRW) Disposal Program.

MRB Consultation/Comments on Issuance of Report. Dr. Sollenberger concluded, based on the discussion and direction of the MRB, that the Florida program was rated "satisfactory, but needs improvement," for the indicator, Compatibility Requirements, and "satisfactory" for all remaining performance indicators reviewed. The review team made one recommendation regarding the performance of the Florida Agreement State Program. The review team recommended that the State evaluate the effectiveness of their existing procedures and policies for marking and handling sensitive information and modify the existing procedures or policies, if needed, to ensure that documents containing sensitive information are appropriately marked in a consistent manner. Accordingly, the review team recommended and the MRB agreed that the Florida Agreement State Program was adequate to protect public health and safety and compatible with NRC's program and that the next full IMPEP review take place in approximately 4 years.

Comments. Mr. Passetti thanked the MRB and the review team for their good work and professionalism. He provided his support for the IMPEP process. He also provided an update and additional comments. Mr. Passetti reemphasized that the one overdue regulation, "Medical Use of Byproduct Material," is on the fast track for being adopted in the next few months. Mr. Passetti noted that the Governor certification letter for the Naturally Occurring and Accelerator Produced Radioactive Material rulemaking has been signed. Also, Mr. Passetti commented that they were one of the first States to have their Increased Control (IC) program reviewed through the IMPEP process. Mr. Passetti commented there is a lot of IC guidance that currently exists on handling and marking of sensitive documents, however, it would be helpful to consolidate all the existing guidance into one easily understandable and accessible document. The NRC agreed to review the available information and evaluate the most effective means to communicate its expectations to the States. Ms. Barbara Hamrick commended Florida's program. Mr. Gallagher also provided his support for the IMPEP process and noted his appreciation for his involvement in this IMPEP review. Mr. Virgilio proceeded to thank the State and the review team for their cooperation and good work.

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. **Good Practices.** No good practices were identified during this review.
5. **Adjournment.** The meeting was adjourned at approximately 4:16 p.m.