

January 8, 2008

MEMORANDUM TO: Martin J. Virgilio
Deputy Executive Director for Materials, Waste,
Research, State, Tribal, and Compliance Programs
Office of the Executive Director for Operations

Karen D. Cyr
General Counsel

Charles L. Miller, Director
Office of Federal and State Materials
and Environmental Management Programs

Marc L. Dapas, Regional Administrator
Region I

FROM: Kim K. Lukes, General Scientist */RA/*
State Agreements and Industrial Safety Branch
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: MINUTES: DECEMBER 4, 2007, IOWA MANAGEMENT REVIEW
BOARD (MRB) MEETING

Enclosed are the minutes of the MRB meeting held on December 4, 2007. If you have comments or questions, please contact me at (301) 415-6701.

Enclosure: Minutes of the Management
Review Board Meeting

cc: Melanie Rasmusson, Chief
Iowa Bureau of Radiological Health

Dennis O'Dowd, New Hampshire
Organization of Agreement States
Liaison to the MRB

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF DECEMBER 4, 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
Charles Miller, MRB Member, FSME
Karen Cyr, MRB Member, OGC
Melanie Rasmusson, IA
Duncan White, FSME

Kim Lukes, FSME
Aaron McCraw, FSME
Terrence Reis, FSME
Jason Razo, FSME
Diana Diaz-Toro, OEDO

By Videoconference:

Randy Erickson, Team Member, Region IV

Marc Dapas, MRB Member, Region I

By Teleconference:

Dennis O'Dowd, OAS Liaison, NH
James Lynch, Team Member, Region III
Kevin Null, Team Member, Region III
Mark Light, Team Member, OH

Randy Dahlin, IA
Nancy Farrington, IA
Ramona Ubaldo, IA

- 1. Convention.** Mr. Aaron McCraw convened the meeting at 1:04 p.m. He noted that this Management Review Board (MRB) meeting was open to the public; however, no members of the public participated in this meeting. He then transferred the lead to Mr. Martin Virgilio, Chair of the MRB. Introductions of the attendees were conducted.
- 2. Iowa IMPEP Review.** Mr. Randy Erickson, team leader, led the presentation of the Iowa Integrated Materials Performance Evaluation Program (IMPEP) review results to the MRB. He summarized the review and noted the findings. The on-site review was conducted by a review team comprised of technical staff members from the U.S. Nuclear Regulatory Commission (NRC) and the State of Ohio during the period of September 11-14, 2007. A draft report was issued to the State for factual comment on October 12, 2007. Iowa responded on October 19, 2007, by e-mail from Ms. Melanie Rasmusson, Chief, Bureau of Radiological Health. Based on the response, the State had minor comments, all of which were incorporated into the proposed final IMPEP report.

Common Performance Indicators. Mr. James Lynch 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 Iowa's performance with respect to this indicator to be "satisfactory" and made no recommendations. Ms. Karen Cyr addressed the review team's observation that, despite the current adequate staffing of the Radioactive Materials Program (Program), the loss of a technical staff member could potentially impact the Program's ability to remain current on all regulatory actions. Ms. Cyr questioned if all the current Program staff are qualified and what are the expectations, in terms of timing, to fully train a new staff member. Ms. Rasmusson responded that all of the current staff is qualified and her expectations would be to overlap hiring with the anticipated loss of existing staff. Ms. Rasmusson noted that the Program would try to team up new staff with experienced staff to provide

in-house training. Mr. Randy Dahlin added that it would take approximately 12-18 months for a new staff member to complete all necessary training. As follow-on to the discussion, Mr. Marc Dapas questioned the review team if they believe additional staff is needed within the Program. Mr. Lynch responded by indicating that the Program is adequately staffed and it was just the intention of the review team to note that additional staff may be needed in the future. Mr. Dahlin added that recently one qualified technical staff member was transferred to the X-Ray Program; however, if needed, that individual could return to the Program. The MRB agreed that Iowa's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Mark Light 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 recommended that Iowa's performance with respect to this indicator be found "satisfactory" and made no recommendations. Dr. Charles Miller commended the Program for the number of inspections completed, including all of the Increased Controls (IC) inspections. Dr. Miller questioned if the 10 followup IC inspections were a result of non-compliance findings during the initial inspections. Mr. Dahlin responded that the followup IC inspections were the result of completing two inspections due to the Program's inspection frequency for routine health and safety inspections which also incorporate IC inspections. Mr. Dapas questioned what the Program's frequency is for industrial radiography inspections. Mr. Dahlin responded that the Program performs industrial radiography inspections once a year for both temporary and permanent jobsites. The MRB agreed that Iowa's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Light also 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 Iowa's performance with respect to this indicator to be "satisfactory" and made no recommendations. The review team also identified a good practice. The review team recommended that the State's practice of contacting licensees prior to issuance of Notice of Violations (NOVs) be identified as a good practice. Ms. Cyr questioned if potential violations are discussed with the licensees during the exit interviews. Ms. Rasmusson clarified that, at the exit interviews, the inspectors discuss "potential" NOVs with the licensees. The inspectors, upon return to the Program office, fully review the potential violations before finalizing the findings in an NOV and inform the State via a phone call. Mr. Dapas questioned the purpose of the followup call with the licensee. Ms. Rasmusson replied that the followup call helps the licensee understand the NOV and helps the Program ensure that corrective actions are taken in a timely manner. Mr. O'Dowd indicated that the Program's practice of informing the licensee of the NOV prior to mailing out the NOV is a good practice and Mr. Virgilio concurred. Mr. Virgilio noted that the discussions of the potential violations during the exit interviews are a noteworthy effort as well. Mr. Dapas questioned the applicability of the good practice identified for incorporation in the NRC Regions. Mr. McCraw informed the MRB that good practices are not necessarily required to be incorporated in a Regional or State program; however, they are listed on the IMPEP Toolbox as items for consideration. The MRB agreed that Iowa's performance met the standard for a "satisfactory" rating for this indicator and approved the good practice.

Mr. Kevin Null 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 Iowa's performance with respect to this indicator to be "satisfactory" and made one recommendation. The review team recommended that the State evaluate their decommissioning financial assurance program to identify and secure original financial assurance documentation from current and future licensees who are required to comply with Iowa's financial assurance requirements. Iowa staff agreed with the recommendation and the MRB's position on the importance of securing appropriate documentation. Ms. Rasmusson indicated that since the IMPEP review, the Program has been working with its legal counsel to resolve issues related to financial assurance. Mr. Erickson noted that during the review, of the original nine licensees who were to comply with the State's financial assurance requirements, the Program had found that a few of them ultimately did not meet the criteria or the Program was able to impose a license condition capping possession limits below the criteria. Of the six remaining licensees, three are State universities and the other three are being reviewed by legal counsel to determine whether financial assurance is required. Dr. Miller noted the Program's practice of conducting pre-licensing visits of new licensees to verify compliance with the IC requirements before a new license is issued. Dr. Miller questioned if the Program has made any modifications to their pre-licensing practices from the recent U.S. Government Accountability Office "sting." Ms. Rasmusson responded that the Program does perform a business check on new licensees. If a concern exists based on that check, the Program will perform an on-site visit. Dr. Miller stated that nothing is fool proof, but the NRC is exploring ways to continually improve on current practices to ensure the security of radioactive material. The MRB agreed that Iowa's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Lynch 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 Iowa's performance with respect to this indicator to be "satisfactory" and made no recommendations. Dr. Miller asked for clarification regarding the State's law requiring that public documents be made available upon request and asked if there have been any cases where the State had to disclose an alleged's identity. Ms. Rasmusson indicated that she is not aware of any incidents where an alleged's identity was disclosed. Ms. Rasmusson stressed that despite the State law to disclose information upon request, the Program tries to ensure that the public feels protected to report allegations. The MRB agreed that Iowa's performance met the standard for a "satisfactory" rating for this indicator.

Non-Common Performance Indicators. Mr. Erickson 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 Iowa's performance to be "satisfactory" and made no recommendations. The MRB collectively agreed that it is a great accomplishment on the part of the Program to be able to keep all the regulations up to date. The MRB agreed that Iowa's performance met the standard for a "satisfactory" rating for this indicator.

MRB Consultation/Comments on Issuance of Report. Mr. Erickson concluded, based on the discussion and direction of the MRB, that the Iowa program was rated “satisfactory” for all performance indicators reviewed. Accordingly, the review team recommended, and the MRB agreed, that the Iowa program was adequate to protect public health and safety and compatible with NRC’s program. Based on the results of the IMPEP review, the review team recommended, and the MRB agreed, that the next full IMPEP review take place in approximately 4 years.

Comments. Ms. Rasmusson thanked Mr. Erickson and the rest of the review team for their assistance to her during her first involvement with the IMPEP process. Ms. Rasmusson noted her appreciation for her staff in maintaining a successful program. Mr. O’Dowd commended the Program staff and management in its ability to maintain an exemplary program. Mr. Light agreed with Mr. O’Dowd’s comments and noted the good work done by the review team. The MRB thanked the State for its cooperation and thanked the team for its presentation and hard work.

3. **Precedents/Lessons Learned.** The MRB established no new precedents to be applied to the IMPEP process during this meeting.
4. **Good Practices.** There was one good practice identified during this review. The review team recommended, and the MRB agreed, that the State’s practice of contacting licensees prior to issuance of NOV’s be identified as a good practice.
5. **Adjournment.** The meeting was adjourned at approximately 2:04 p.m.