

December 9, 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

 Bradley W. Jones
 Assistant General Counsel for Rulemaking
 and Fuel Cycle
 Office of the General Counsel

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

 Mark A. Satorius
 Deputy Regional Administrator
 Region III

FROM: Aaron T. McCraw, IMPEP Project Manager */RA/*
 Division of Materials Safety and State Agreements
 Office of Federal and State Materials
 and Environmental Management Programs

SUBJECT: MINUTES: OCTOBER 28, 2008, KENTUCKY MANAGEMENT
 REVIEW BOARD (MRB) MEETING

Enclosed are the minutes of the MRB meeting held on October 28, 2008. If you have comments or questions, please contact me at (301) 415-1277.

Enclosure: Minutes of the Management
 Review Board Meeting

cc: Dewey Crawford, Manager
 Kentucky Radiation Health Branch

 Thomas Conley, Kansas
 Organization of Agreement States
 Liaison to the MRB

Management Review Board Members

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF OCTOBER 28, 2008

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
Brad Jones, Acting MRB Member, OGC
Matt McKinley, KY
Alison Rivera, OEDO

Charles Miller, MRB Member, FSME
Aaron McCraw, FSME
Duncan White, FSME
Karen Meyer, FSME

By Videoconference:

Mark Satorius, MRB Member, Region III

By Teleconference:

Tom Conley, OAS Liaison, KS
Rick Munoz, Team Member, Region IV
Donna Janda, Region I

Mike Stephens, Team Member, FL
Dewey Crawford, KY

- 1. Convention.** Mr. Aaron McCraw convened the meeting at 3:00 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. Kentucky IMPEP Review.** Mr. Aaron McCraw, on behalf of the team leader, Ms. Kathleen Schneider, led the presentation of the Kentucky 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 Florida during the period of July 28 – August 1, 2008. A draft report was issued to the Commonwealth for factual comment on August 28, 2008. Kentucky responded via letter from Dr. William D. Hacker, Commissioner, Department for Public Health, on October 6, 2008. Based on the response, the Commonwealth had editorial comments, most of which were incorporated into the proposed final report.

Common Performance Indicators. Mr. McCraw, on behalf of Ms. Kim Lukes, 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. Mr. McCraw noted that the program's staffing level was stable after some turnover at the beginning of the review period. Mr. McCraw asked that the MRB keep in mind that, with the turnover in staff, the Kentucky program is a relatively new program and that some of the issues identified as the review program can be contributed to "rookie mistakes." The review team found Kentucky's performance with respect to this indicator to be "satisfactory" and made no recommendations. Dr. Charles Miller asked the Commonwealth how they were able to stabilize its staffing level, because many Agreement States are struggling with maintaining a stable, qualified staff. Mr. Matt McKinley indicated that the Commonwealth has been able to increase salaries up to 50 percent for certain positions, which has helped recruit and retain qualified staff. Mr. Mark

Satorius urged the Commonwealth to keep its focus on the importance of staffing and training as these factors will enhance the overall program. The MRB agreed that Kentucky's performance met the standard for a "satisfactory" rating for this indicator.

Mr. McCraw, on behalf of Ms. Schneider, 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. Mr. McCraw indicated that the program inspection approximately 30 percent of its "core" inspections overdue; however, there were no overdue inspections at the time of the review. Mr. McCraw explained that the percentage of overdue inspections and the current status of inspections were taken into consideration when the review team assigned an indicator rating. The review team recommended that Kentucky's performance with respect to this indicator be found "satisfactory, but needs improvement" and made no recommendations. The MRB, the review team, and the Commonwealth had a lengthy discussion on the status of the Increased Controls inspections. The MRB concluded that the final report should be revised to reflect the status of the Increased Controls inspections and that the justification for a "satisfactory, but needs improvement" rating should be tied to the number of overdue inspections. The MRB agreed that Kentucky's performance met the standard for a "satisfactory, but needs improvement" rating for this indicator.

Mr. Rick Munoz 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. Mr. Munoz explained the performance issues he identified during the inspector accompaniments that were performed as part of the IMPEP review. The review team found Kentucky's performance with respect to this indicator to be "satisfactory, but needs improvement" and made three recommendations. The review team recommended that the Commonwealth revise its inspection procedures to require documentation of the closure of any previous violation, verification of corrective actions, and evaluation of preventive measures implemented by the licensee both in the inspection documentation and during the exit with the licensee. The review team recommended that the Commonwealth discuss previous inspection findings, corrective actions, and any potential violations with the licensee during inspections. The review team recommended that the Commonwealth use its own calibrated radiological survey equipment to perform independent confirmatory surveys during inspections. The review team identified, and the MRB supported, one good practice. The Commonwealth has a practice of requesting that the licensees extend an invitation to the local law enforcement agency during initial on-site visits/inspections for Increased Controls. The MRB discussed the review team's recommendations with the Commonwealth. The MRB agreed that Kentucky's performance met the standard for a "satisfactory, but needs improvement" rating for this indicator.

Mr. Mike Stephens 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 Kentucky's performance with respect to this indicator to be "satisfactory" and made two recommendations. The review team recommended that the Commonwealth develop and implement a reliable mechanism to identify when a license is in need of a comprehensive renewal, identify

these licenses, and develop and implement a plan to perform these renewals. The review team recommended that the Commonwealth integrate the pre-licensing requirements of FSME 07-026 into their licensing program and re-evaluate new licenses issued since September 2007 for implementation of these requirements. Mr. Virgilio asked a question regarding guidance on the interval for license renewals. Mr. Stephens responded that the IMPEP criteria do not specify a set interval for license expiration and that the review team's recommendation was based on the Commonwealth's regulations that require a full technical review every 5-7 years. The MRB agreed that Kentucky's performance met the standard for a "satisfactory" rating for this indicator.

Mr. McCraw, on behalf of Mr. Jim Kottan, 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 Kentucky's performance with respect to this indicator to be "satisfactory" and made no recommendations. The MRB agreed that Kentucky's performance met the standard for a "satisfactory" rating for this indicator.

Non-Common Performance Indicators. Mr. McCraw, on behalf of Ms. Lukes, presented the findings regarding the non-common performance indicator, Compatibility Requirements. His presentation corresponded to Section 4.1 of the proposed final IMPEP report. Mr. McCraw explained that the Commonwealth has a significant number of overdue regulations; however, many of them have been addressed and are in the process of becoming final and effective regulations. The review team found Kentucky's performance to be "satisfactory, but needs improvement" and made no recommendations. Several MRB members inquired about the status of the adoption of the regulations. Dr. Miller offered NRC assistance in getting the regulations through the process and in final form, if needed. The MRB agreed that Kentucky's performance met the standard for a "satisfactory, but needs improvement" rating for this indicator.

Mr. Stephens 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 Kentucky's performance to be "satisfactory" and made one recommendation. The review team recommended that the Commonwealth develop and implement a mechanism to verify the implementation of the approved quality assurance and quality control program. The MRB agreed that Kentucky's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Munoz presented the findings regarding the non-common performance indicator, Low-level Radioactive Waste Disposal Program. His presentation corresponded to Section 4.3 of the proposed final IMPEP report. The review team found Kentucky's performance to be "satisfactory" and made no recommendations. The MRB agreed that Kentucky's performance met the standard for a "satisfactory" rating for this indicator.

MRB Consultation/Comments on Issuance of Report. Mr. McCraw concluded, based on the discussion and direction of the MRB, that the Kentucky program was found "satisfactory" for five of the eight performance indicators reviewed and "satisfactory, but needs improvement" for the remaining three indicators. Accordingly, the review team

recommended, and the MRB agreed, that the Kentucky program was “adequate to protect public health and safety, but needs improvement,” 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 IMPEP review take place in approximately 4 years, with a periodic meeting in approximately 1 year. The review team recommended and the MRB agreed that the period of monitoring of the Kentucky Agreement State Program should continue.

Comments. Mr. Dewey Crawford was appreciative of the review and the review team’s criticisms to help enhance the Kentucky program. Mr. McKinley indicated that the Kentucky program is a young program, but they continue to improve everyday. Mr. Tom Conley commended the program in their efforts and encouraged it to continue to improve. He also encouraged the program to reach out to its regulatory partners for advice or assistance. Mr. Stephens was appreciative of the opportunity to review a fellow regulator and encouraged the Commonwealth to participate on the monthly Organization of Agreement States/Conference of Radiation Control Program Directors calls. Mr. Virgilio thanked the review team, the Commonwealth, and the MRB for their participation.

3. **Precedents/Lessons Learned.** The MRB established no new precedents to be applied to the IMPEP process during this meeting.
4. **Adjournment.** The meeting was adjourned at approximately 4:35 p.m.