

June 4, 2009

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

Joseph R. Gray, Associate General Counsel
for Licensing and Regulation
Office of the General Counsel

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

Elmo E. Collins
Regional Administrator
Region IV

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: MAY 5, 2009 NORTH CAROLINA MANAGEMENT
REVIEW BOARD (MRB) MEETING

Enclosed are the minutes of the MRB meeting held on May 5, 2009. If you have comments or questions, please contact me at (630) 829-9650.

Enclosure: Minutes of the Management
Review Board Meeting

cc: W. Lee Cox, III, Acting Chief
North Carolina Radiation
Protection Section

Michael Snee, Ohio
Organization of Agreement States
Liaison to the MRB

Management Review Board Members

Distribution: DCD (SP01)

DMSSA RF

ARivera, OEDO

JLynch, RIII

JKottan, RI/RSAO

MOrendi, FSME/MSSA

MBeardsley, FSME/MSSA

ML091550814

OFC	FSME/MSSA		
NAME	ATMcCraw:knm1		
DATE	06/04/09		

OFFICIAL RECORD COPY

MINUTES: MANAGEMENT REVIEW BOARD (MRB) MEETING OF MAY 5, 2009

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
Joseph Gray, MRB Member, OGC
Duncan White, FSME
Alison Rivera, OEDO

Charles Miller, MRB Member, FSME
Robert Lewis, FSME
Karen Meyer, FSME

By Videoconference:

Elmo Collins, MRB Member, Region IV
Geoffrey Warren, Team Member, Region III

James Lynch, Team Leader, Region III
Aaron McCraw, FSME

By Teleconference:

Michael Snee, OAS Liaison, OH
Cindy Becker, Team Member, FL
Mike Kelly, NC
James Albright, NC

James Kottan, Team Member, Region I
Manly Wilder, NC
Lee Cox, NC

- 1. Convention.** Mr. Aaron McCraw convened the meeting at 9:03 a.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. North Carolina IMPEP Review.** Mr. James Lynch, Team Leader, led the presentation of the North Carolina Integrated Materials Performance Evaluation Program (IMPEP) review results to the MRB. He summarized the review and the team's findings. The on-site review was conducted by a review team comprised of technical staff members from the U.S. Nuclear Regulatory Commission (NRC), the State of Florida, and the State of Texas during the period of February 23-27, 2009. A draft report was issued to the State for factual comment on March 26, 2009. The State responded to the review team's findings via letter dated April 14, 2009. The State provided additional clarifying comments under separate cover that were incorporated into the proposed final report.

Common Performance Indicators. Mr. James Kottan 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 North Carolina's performance with respect to this indicator to be "satisfactory" and made no recommendations. Dr. Charles Miller asked the State about the North Carolina Legislature's proposed budget cut. Mr. Lee Cox explained that the proposal would eliminate all appropriated funds to the program, which constitute approximately one-third of the program's overall budget. Mr. Cox continued that he would be unable to increase the radioactive materials licensing fees in sufficient time to counteract the budget cuts. Dr. Miller offered NRC assistance with educating the legislature on the Agreement State

program at the State's request. Mr. Elmo Collins asked the team if there were any performance issues due to the fact that North Carolina has not had an inspector attend the NRC's irradiator class. The team responded that there were no performance issues identified. Mr. Cox added that he submitted an application for an individual to attend the upcoming training. Mr. Michael Snee inquired about the State's loss of its engineering contractor and how that will affect sealed source and device reviews. Mr. Cox stated that he requested NRC assistance but was denied. Mr. Joseph Gray clarified that NRC cannot perform regulatory actions on behalf of the State but can review the State's work and offer technical advice. The MRB agreed that North Carolina's performance met the standard for a "satisfactory" rating for this indicator.

Ms. Cindy Becker 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 North Carolina's performance with respect to this indicator to be "satisfactory" and made no recommendations. Dr. Miller asked the State about their 1-year re-inspection frequency for Increased Controls inspections. Mr. Cox replied that it was an initiative to put additional emphasis on security; however, the State will likely need to re-evaluate the frequency if the proposed budget cut gets approved. Mr. Collins asked about the State's policy of hand-delivering new licenses. Mr. Cox responded that the inspectors can make on-site determinations of whether or not to issue the license, but the visits do not take the place of initial inspections. Mr. James Albright added that inspectors also evaluate security during the hand-delivery of a new license. The MRB agreed that North Carolina's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Geoffrey Warren 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 North Carolina's performance with respect to this indicator to be "satisfactory" and made no recommendations. Mr. Collins asked if the State has encountered any challenges by performing the routine health and safety inspections and the Increased Controls inspections separately. Mr. Cox explained that he performed the first Increased Controls inspections for the State and found it difficult to integrate the two inspections. He continued that, under this method, the inspectors can put the appropriate emphasis on what is being inspected, either security or health and safety. The MRB agreed that North Carolina'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 Licensing Actions. His presentation corresponded to Section 3.4 of the proposed final IMPEP report. The review team found North Carolina's performance with respect to this indicator to be "satisfactory" and made no recommendations. Mr. Gray asked about the one irradiator license that did not have all required security license conditions on it that was mentioned in the proposed final report. Mr. Cox explained that the State used the interim database to identify the licenses that should have the security license conditions imposed upon them and that the irradiator license was a new license that was issued after the implementation of the interim database. He stated that he was confident that it was an isolated case and that all other applicable licenses have the

appropriate security license conditions imposed upon them. The MRB agreed that North Carolina's performance met the standard for a "satisfactory" rating for this indicator.

Mr. 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 North Carolina's performance with respect to this indicator to be "satisfactory" and made one recommendation. The review team recommended that the State strengthen its incident response process to ensure that incidents will be reported to NRC as required by FSME Procedure SA-300. Mr. Snee commented on the State's actions to address the review team's recommendations that were submitted in the State's response to the draft report. Mr. Albright explained that the State held an in-service training on SA-300 with all technical staff and that the State revised its incident response procedure. He stated that the State also developed a "cheat sheet" of reporting requirements to assist the technical staff in their determinations of whether an incident is reportable or not. The MRB agreed that North Carolina's performance met the standard for a "satisfactory" rating for this indicator.

Non-Common Performance Indicators. Mr. Lynch 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 North Carolina's performance to be "satisfactory" and made one recommendation. The review team recommended that the State, to maintain compatibility with NRC, make appropriate regulatory changes to resolve NRC-generated comments as noted in regulation review letters. Mr. Cox explained that the State lost its regulation coordinator during the review period. He continued to explain that he made a conscious decision to put rulemaking on hold in order to address the high-priority security activities that were initiated during the review period. Mr. Virgilio stated that he appreciated that the State made a managed decision to address the high-priority items. The MRB agreed that North Carolina's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Lynch presented the findings regarding the non-common performance indicator, Sealed Source and Device Evaluation Program. His presentation corresponded to Section 4.2 of the proposed final IMPEP report. The review team found North Carolina's performance to be "satisfactory" and made no recommendations. The MRB agreed that North Carolina's performance met the standard for a "satisfactory" rating for this indicator.

MRB Consultation/Comments on Issuance of Report. Mr. Lynch concluded that the North Carolina program was found "satisfactory" for all seven performance indicators reviewed. Accordingly, the review team recommended, and the MRB agreed, that the North Carolina 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 IMPEP review take place in approximately 4 years.

Comments. Mr. Virgilio commended the State on its fourth consecutive IMPEP review with the highest ratings. Mr. Cox thanked the team for their review. He stated that he sees great value in IMPEP. He also expressed his appreciation for the good working relationship between the State of North Carolina and NRC. Mr. Albright stated that he greatly appreciated the openness and transparency of the process. He stated that he thought the review was exceedingly beneficial for him and his staff. Mr. Virgilio stated that he was appreciative on North Carolina's contributions to the IMPEP process and added that he would like to see North Carolina continue to support the program. Ms. Becker related that this was her first IMPEP as a team member and hopefully not her last. She stated that she learned a lot more than expected in the process. Mr. Snee congratulated the State on its fourth consecutive IMPEP with the highest ratings. Mr. Virgilio thanked the review team, the State, 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 9:52 a.m.