

February 9, 2010

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

Cynthia A. Carpenter, Deputy Director
Office of Federal and State Materials
and Environmental Management Programs

Cynthia A. Pederson, Deputy Regional Administrator
Region III

FROM: Michelle Beardsley, Health Physicist */RA K.Meyer for/*
Agreement State Programs Branch
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: MINUTES: JANUARY 7, 2010, SPECIAL MANAGEMENT
REVIEW BOARD (MRB) MEETING

Enclosed are the minutes of the MRB meeting held on January 7, 2010, to discuss periodic meetings held with the New York City and State, Kentucky and Georgia Agreement State Programs. If you have comments or questions, please contact me at (610) 337-6942.

Enclosure: Minutes of the Management
Review Board Meeting

cc w/encl.: See next page

cc w/encl.: George Johns, Minnesota
Organization of Agreement States
Liaison to the MRB

Stephen Gavitt, Director
Bureau of Environmental Radiation Protection
New York State Department of Health

Tim Rice, Section Chief
New York State Department of Environmental
Conservation

Gene Miskin, Director, Office of Radiological Health
New York City Department of Health and Mental Hygiene

Dewey Crawford, Administrator, Radiation Control Program
Kentucky Department for Public Health

James Sommerville, Chief, Program Coordination Branch
Georgia Department of Natural Resources

Management Review Board Members

Distribution: DCD (SP01)

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NAME	MBeardsley/knm		
DATE	02/09/10		

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF JANUARY 7, 2010

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

Charles Miller, Acting MRB Chair, FSME
Cindi Carpenter, Acting MRB Member, FSME
Brad Jones, MRB Member, OGC
Duncan White, FSME

Monica Orendi, FSME
Joan Olmstead, OGC
Cathy Kanatas, OGC

By videoconference:

Cynthia Pederson, MRB Member, Region III
Jim Kottan, Region I
John Kinneman, Region I

Michelle Beardsley, FSME
Aaron McCraw, FSME

By Teleconference:

George Johns, OAS Liaison, MN
Steven Gavitt, NYSDOH
Charles Burns, NYSDOH
Timothy Rice, NYSDEC
Dewey Crawford, KY
Matthew McKinley, KY
Tobias Lickerman, NYC

Robert Dansereau, NYSDOH
Sandra Hinkel, NYSDEC
Gene Miskin, NYC
James Sommerville, GA
Cynthia Sanders, GA
Ted Jackson, GA

1. **Convention.** Ms. Michelle Beardsley convened the meeting at 2:36 p.m. She noted that this MRB meeting was open to the public; however, no members of the public participated in this meeting. She then transferred the lead to Mr. Charles Miller, Acting Chair of the MRB. Introductions of the attendees were conducted.
2. **Periodic Meetings Discussions.**

Periodic Meeting with New York City Department of Health and Mental Hygiene (NYC)

Mr. James Kottan led the discussion of the results of the periodic meeting with New York City (ADAMS Accession Number: ML092360087). The meeting was held in New York, New York, on July 16, 2009. Mr. Kottan indicated that the last Integrated Materials Performance Evaluation Program (IMPEP) was conducted in November 2006, and the review team found the NYC Program to be satisfactory for all common and non-common indicators, with the exception of the Compatibility Requirements non-common indicator, which was found unsatisfactory. The review team also made one recommendation for the NYC to develop and implement an action plan to adopt NRC regulations. The MRB, at that time, determined that NYC should remain on heightened oversight. Mr. Kottan noted that NYC currently has three regulations overdue. Mr. Miskin stated that all three regulations will be submitted to NRC for review by March 2010, and he is expecting that they will be adopted and published in September 2010. The MRB concluded that the

next IMPEP review of the New York City Department of Health and Mental Hygiene, New York, New York, should take place as currently scheduled, in Fiscal Year 2011.

Periodic Meeting with New York State Department of Environmental Conservation (NYSDEC)

Mr. James Kottan led the discussion of the results of the periodic meeting with NYSDEC (ADAMS Accession Number: ML092360162). The meeting was held in Albany, New York, on July 28, 2009. Mr. Kottan indicated that the last IMPEP was conducted in November 2006 and the review team found the NYSDEC Program to be satisfactory for all common and non-common indicators, with the exception of the Compatibility Requirements non-common indicator, which was found unsatisfactory. The review team also made two recommendations concerning the transmittal of inspection results, and for the Program to develop and implement an action plan to adopt NRC regulations. He indicated that the first recommendation be closed at the next review, but the latter remains open. The MRB, at that time, determined that the NYSDEC remain on heightened oversight. Mr. Kottan indicated that NYSDEC currently has six regulations overdue and that, at the last bi-monthly conference call, the latest NYSDEC Program Improvement Plan indicated that these regulations will be implemented in summer 2011. Mr. Rice confirmed that they are still on schedule at this time. He also stated that all requirements are accomplished through permit issuance until the regulations have been approved. Mr. Rice also stated that they have currently been approved for funding to fill the two vacant positions noted in the meeting summary. The MRB concluded that the next IMPEP review of the New York State Department of Environmental Conservation, Albany, New York, should take place as currently scheduled, in Fiscal Year 2011.

Periodic Meeting with New York State Department of Health (NYSDOH)

Mr. James Kottan led the discussion of the results of the periodic meeting with NYSDOH (ADAMS Accession Number: ML092250514). The meeting was held in Troy, New York, on July 29, 2009. Mr. Kottan indicated that the last IMPEP was conducted in November 2006 and the review team found the NYSDOH Program to be satisfactory for all common and non-common indicators, with the exception of the Compatibility Requirements non-common indicator, which was found unsatisfactory. The review team also made one recommendation for the Program to develop and implement an action plan to adopt NRC regulations. The MRB, at that time, determined that the NYSDOH remain on heightened oversight. Mr. Kottan stated that NYSDOH currently has nineteen regulations overdue and that, at the last bi-monthly conference call, the State indicated that these regulations should be adopted in the third quarter of 2010. Mr. Gavitt indicated that he is still hopeful for this to be on schedule. Mr. Johns indicated his concern regarding the number of overdue regulations and questioned the State's actions in the interim for compliance. Mr. Gavitt stated that license conditions have been issued in the interim. The State brought to the MRB's attention a persistent problem they have been experiencing with the National Source Tracking System (NSTS). Specifically, they have tried on numerous occasions to delete licensees who do not possess NSTS tracked sources from the database without success. Mr. Miller accepted this as a take-away item to be investigated by FSME staff. The MRB concluded that the next IMPEP review of the New York State Department of Health, Troy, New York, should take place as currently scheduled, in Fiscal Year 2011.

Periodic Meeting with Kentucky Department for Public Health (DPH)

Mr. James Kottan led the discussion of the results of the periodic meeting held with Kentucky DPH (ADAMS Accession Number: ML092020245). The meeting was held in Frankfort, Kentucky on September 15, 2009. Mr. Kottan indicated that the last IMPEP was conducted in July, 2008 and the review team found Kentucky's program satisfactory for five performance indicators and satisfactory, but needs improvement for three performance indicators. The review team made six recommendations, all which remain open and should be evaluated at the next IMPEP review. At that time, the MRB found the Kentucky program adequate to protect public health and safety, but needs improvement, and compatible with NRC's program. They determined that Kentucky should remain in monitoring status. Mr. Kottan stated that the Kentucky program has taken action on all six recommendations. He also stated that they currently have seventeen regulations overdue. Mr. Crawford stated that these regulations are ready for review by the Legislative Review Committee and he hopes to have them adopted within 2 years. He reiterated his frustration with the lengthiness of the legislative approval process in Kentucky. Mr. Crawford also indicated that they had problems gaining access to the NSTS system, however he believed the problem existed with Kentucky's firewall interface. Ms. Pederson noted that the meeting summary stated that there were 30 inspections overdue (Priority 3 and below) and asked if this was still a problem. Kentucky stated that they now have adequate staff to complete these inspections. The MRB concluded that the next IMPEP review of the Kentucky Department for Public Health, Frankfort, Kentucky, should take place as currently scheduled, in Fiscal Year 2012.

Periodic Meeting with Georgia Department of Natural Resources (DNR)

Mr. James Kottan led the discussion of the results of the periodic meeting held with Georgia DNR (ADAMS Accession Number: ML092260146). The meeting was held in Atlanta, Georgia on October 28, 2009. Mr. Kottan indicated that the last IMPEP was conducted in September 2008 and the review team found the State's program satisfactory for three performance indicators, and satisfactory, but needs improvement for four performance indicators. Two recommendations were made by the review team, and two recommendations were carried over from the previous IMPEP. At that time, the MRB directed staff to initiate a period of monitoring. Mr. Kottan reported that at the time of the periodic meeting Georgia confirmed that it has taken action on all recommendations; however these actions remain open and should be reviewed at the time of the next IMPEP. He further stated that they have no overdue regulations. Ms. Sanders reiterated their comment that Georgia staff is still having difficulty getting into NRC training, specifically Gamma Knife and Industrial Radiography training. Mr. White explained that there was a backlog of attendees for these courses due to the need for staff from new Agreement States to attend. He believes that this backlog should decrease in the coming years. The MRB concluded that the next IMPEP review of the Georgia Department of Natural Resources, Atlanta, Georgia, should take place as currently scheduled, in Fiscal Year 2011.

Comments. Ms. Beardsley reiterated the one take-away item for FSME staff regarding the problem New York State DOH is having with NSTS. She also restated the MRB's decisions to maintain the next IMPEP reviews for New York City and State, Kentucky, and Georgia as currently scheduled.

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 4:15 p.m.