

April 6, 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

Marc Dapas, Deputy Regional Administrator
Region I

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

SUBJECT: MINUTES: MARCH 25, 2010, SPECIAL MANAGEMENT
REVIEW BOARD (MRB) MEETING

Enclosed are the minutes of the MRB meeting held on March 25, 2010, to discuss periodic meetings held with NRC Region III, and the Minnesota, Maryland and New Hampshire Agreement State Programs, and the orientation meeting held with the Virginia Agreement State Program. 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.: Jared Thompson, Arkansas
Organization of Agreement States
Liaison to the MRB

Mark Satorius, Administrator
NRC Region III

Leslie Foldesi, Director
Virginia Division of Radiological Health

Dennis O'Dowd, Administrator
New Hampshire Radiological Health Section

George Johns, Supervisor
Minnesota Radioactive Materials Unit

Roland Fletcher, Manager
Maryland Radiological Health Program

Management Review Board Members

Distribution: DCD (SP01)

MSSA RF

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TReis, FSME/MSSA

DWhite, FSME/MSSA

MFranovich, OEDO

JKottan, RI/RSAO

DJanda, RI/RSAO

JKinneman, RI/DNMS

JLynch, RIII/RSAO

CPederson, RIII

SReynolds, RIII/DNMS

MOrendi, FSME/MSSA

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OFC	FSME/MSSA		
NAME	MBeardsley		
DATE	04/06/10		

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF MARCH 25, 2010

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

Marty Virgilio, Chair, DEDMRT
Brad Jones, MRB Member, OGC
Shirley Xu, FSME
Aaron McCraw, FSME
Torre Taylor, FSME
Michael Weber, NMSS

Cindi Carpenter, Acting MRB Member, FSME
Rob Lewis, FSME
Monica Orendi, FSME
Karen Meyer, FSME
Candace Clemons-Webb, FSME
Duncan White, FSME

By videoconference:

Marc Dapas, MRB Member, Region I
Cynthia Pederson, Region III
Donna Janda, Region I
Steven Reynolds, Region III
Jim Lynch, Region III

Mark Satorius, Region III
Michelle Beardsley, FSME
Jim Kottan, Region I
Pat Loudon, Region III

By teleconference:

Jared Thompson, OAS Liaison, Arkansas
George Johns, Minnesota
Brandon Juran, Minnesota
Roland Fletcher, Maryland
Alan Jacobsen, Maryland
Dennis O'Dowd, New Hampshire
Leslie Foldesi, Virginia

Dale Dorschner, Minnesota
Sherrie Flaherty, Minnesota
Sue McClanahan, Minnesota
Ray Manley, Maryland
Barbara Park, Maryland
Twila Kenna, New Hampshire

1. **Convention.** Mr. Aaron McCraw convened the meeting at 2:05 p.m. He noted that this MRB meeting was open to the public; however, no members of the public participated in this meeting. He then transferred the lead to Mr. Marty Virgilio, Chair of the MRB. Introductions of the attendees were conducted.

2. **Periodic Meetings Discussions:**

Periodic Meeting with NRC Region III

Mr. Rob Lewis led the discussion of the results of the periodic meeting with NRC Region III (ADAMS Accession Number: ML093490392). The meeting was held in Lisle, Illinois, on November 9-10, 2009. Mr. Lewis indicated that the last Integrated Materials Performance Evaluation Program (IMPEP) was conducted in August 2007, and the review team found the Region III Program to be satisfactory for all performance indicators reviewed. He stated that no issues were identified with respect to operating or strategic plan metrics. He noted that the number of Region III's inspections in the "grace period" (due date plus 25 percent) has risen steadily throughout 2009 due to significant reactive inspections and assists to other NRC regions; however, Region III plans to

complete 525 inspections in 2010, which would reduce this backlog. Ms. Cindi Carpenter noted that in the report, it stated that there was an issue with inspection report tracking time. Mr. Lewis explained that this was an administrative issue in that some inconsistencies exist with tracking this item among the Regions. The MRB concluded that the next IMPEP review of the NRC Region III Program, should take place, as currently scheduled, in Fiscal Year 2011.

Periodic Meeting with the Minnesota Agreement State Program

Mr. Jim Lynch led the discussion of the results of the periodic meeting with Minnesota (ADAMS Accession Number: ML093100259). The meeting was held in St. Paul, Minnesota, on October 15, 2009. Mr. Lynch indicated that the last IMPEP was conducted in October 2007 and the review team found the Minnesota Agreement State Program to be satisfactory for all performance indicators reviewed. The review team also identified one good practice. Mr. Lynch stated that, at the time of the periodic meeting, there were no overdue inspections or licensing actions. He further noted that Minnesota has a solid source of funding for the program. Mr. Marc Dapas questioned the issue in the meeting summary concerning pre-licensing visit evaluations being less conservative than NRC criteria. Mr. Johns and Ms. Flaherty explained that the Program initially thought that pre-licensing visits were only required for licensees possessing Category 1, 2, and 3 sources. They further stated that during the periodic meeting it was explained to them that pre-licensing visits were required for all new "unknown" licensees, regardless of materials authorized on the license. Mr. Brad Jones questioned if Minnesota has experienced difficulty with filling vacant positions due to the program's educational and experience requirements. Mr. Johns responded that he did not foresee any issues with filling future vacancies. The MRB concluded that the next IMPEP review of the Minnesota Agreement State Program should take place, as currently scheduled, in Fiscal Year 2012.

Periodic Meeting with the Maryland Agreement State Program

Ms. Donna Janda led the discussion of the results of the periodic meeting with Maryland (ADAMS Accession Number: ML100550122). The meeting was held in Baltimore, Maryland, on November 4, 2009. Ms. Janda indicated that the last IMPEP was conducted in August 2007, and the review team found the Maryland Agreement State Program to be satisfactory for all performance indicators reviewed. Ms. Janda noted that the Program has experienced several mandatory furlough days in the past year due to budget constraints. Ms. Carpenter questioned how the Program was managing the Program's workload with the furlough days. Mr. Fletcher and Mr. Manley explained that, while challenging at times, the Program has been able to stay current on its required regulatory actions. Ms. Carpenter and Mr. Dapas questioned the status of the State regulations listed in the report as being "submitted for review". Since the MRB meeting, it has been determined that all proposed regulations have been reviewed by NRC and no comments were made; however, Maryland has yet to submit the final regulations for review. Mr. Manley also indicated that there was an error in the periodic meeting summary report in that it was stated, "Since the most recent IMPEP, MDE implemented a department-wide enforcement program which allows for the collection of civil penalties." Mr. Manley stated that Maryland has always had the ability to collect civil penalties; however, that authority had been expanded. The MRB concluded that the next IMPEP

review of the Maryland Agreement State Program should take place, as currently scheduled, in Fiscal Year 2011.

Periodic Meeting with the New Hampshire Agreement State Program

Ms. Janda also led the discussion of the results of the periodic meeting held with New Hampshire (ADAMS Accession Number: ML100541317). The meeting was held in Concord, New Hampshire, on October 16, 2009. Ms. Janda indicated that the last IMPEP was conducted in September 2008 and the review team found New Hampshire's program satisfactory for six performance indicators and satisfactory, but needs improvement for the performance indicator, Compatibility Requirements. The review team made one recommendation that the State develop and implement an action plan to adopt NRC regulations in accordance with current NRC policy. This recommendation remains open and should be evaluated at the next IMPEP review. Ms. Janda also noted that at the time of the periodic meeting, no inspections or licensing actions were overdue. Ms. Carpenter asked about the status of the staff position that the State indicated would be dedicated to rulemaking activities. Mr. O'Dowd stated that this position is under review for the next fiscal year. Mr. Dapas asked that the State inform the NRC when this position has been filled. Mr. Lewis indicated that the State should inform the Regional State Agreements Officer at the time the position is filled. Ms. Carpenter also questioned the status of the overdue regulations. Ms. Orendi stated that the NRC review has been completed, and a letter with comments has been sent to the State to address these comments in the final regulations. Mr. O'Dowd stated that two other regulations for medical use will be sent to NRC for review within the next two months. Mr. White noted that New Hampshire has "sunset" provisions which require that the State review and resubmit regulations every 8 years, which he opined would explain the extra difficulty New Hampshire has in submitting regulations in a timely manner. The MRB concluded that the next IMPEP review of the New Hampshire Agreement State Program should take place, as currently scheduled, in Fiscal Year 2012.

3. Orientation Meeting Discussion:

Orientation Meeting with the Virginia Agreement State Program

Mr. Jim Kottan led the discussion of the results of the orientation meeting held with Virginia (ADAMS Accession Number: ML100541986). The meeting was held in Richmond, Virginia, on January 20, 2010. Mr. Kottan indicated that the Commonwealth of Virginia became an Agreement State on March 31, 2009. He noted that, at the time of the meeting, no inspections or licensing actions were overdue. He further noted that the Virginia Agreement State Program is 100 percent funded by the fees charged to licensees; these fees are placed into a restricted account that is available only to the Program. He further noted that the Virginia Agreement State Program appears to be a capable, stable program. Ms. Carpenter asked about the issues with the National Source Tracking System (NSTS) noted in the meeting summary. Mr. Foldesi explained that these problems have since been resolved. Mr. Jones questioned the status of financial instrument turnover. Mr. Dapas responded that all financial assurance instruments have been turned over to Virginia from Region I. The MRB concluded that the initial IMPEP review of the Virginia Agreement State Program should take place, as currently scheduled, in Fiscal Year 2011.

Comments. Mr. McCraw reiterated the items needed to be reflected in the meeting minutes. He also restated the MRB's decisions to maintain the next IMPEP reviews for NRC Region III, Maryland, Minnesota, New Hampshire, and Virginia as currently scheduled.

4. **Precedents/Lessons Learned.** The MRB established no new precedents to be applied to the IMPEP process during this meeting.
5. **Adjournment.** The meeting was adjourned at 3:15 p.m.