

August 30, 2011

MEMORANDUM TO: Cynthia A. Carpenter, Acting Director
Office of Federal and State Materials
and Environmental Management Programs

Bradley W. Jones, Assistant General Counsel
for Reactor and Materials Rulemaking
Office of the General Counsel

Robert J. Lewis, Acting Deputy Director
Office of Federal and State Materials
and Environmental Management Programs

Cynthia D. Pederson, Deputy Regional Administrator
Region III

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

SUBJECT: MINUTES: AUGUST 16, 2011
SPECIAL MANAGEMENT REVIEW BOARD (MRB) MEETING

Enclosed are the minutes of the Special MRB meeting held on August 16, 2011 in which the summaries of the periodic meetings held with the New Mexico, North Carolina and Georgia Agreement State Programs were discussed. If you have comments or questions, please contact me at (610) 337-6942.

Enclosure: Cover Page and Minutes of the
Management Review Board Meeting

cc w/encl.: Paul Schmidt, Wisconsin
Organization of Agreement States
Liaison to the MRB

Management Review Board Members

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MINUTES: SPECIAL MANAGEMENT REVIEW BOARD MEETING OF AUGUST 16, 2011

The attendees were as follows:

In person at U.S. Nuclear Regulatory Commission (NRC) Headquarters in Rockville, Maryland:

Cynthia Carpenter, Acting MRB Chair, FSME
Bradley Jones, MRB Member, OGC
Duncan White, FSME

Robert Lewis, MRB Member, FSME
Lisa Dimmick, FSME

By videoconference:

Cindy Pederson, MRB Member, Region III
Ray Lorson, Region I
Donna Janda, Region I

Monica Orendi, Region I
Michelle Beardsley, FSME
Rachel Browder, Region IV

By telephone:

Paul Schmidt, MRB Member, Wisconsin
Santiago Rodriguez, New Mexico
James Albright, North Carolina
Chuck Mueller, Georgia

Michael Ortiz, New Mexico
Lee Cox, North Carolina
Cynthia Long, Georgia

1. **Convention.** Ms. Cynthia Carpenter convened the meeting at 1:00 p.m. (ET). She noted that this Special Management Review Board (MRB) meeting was open to the public; however, no members of the public participated in this meeting. Introductions of the attendees were conducted.

2. **Periodic Meetings Discussions:**

Periodic Meeting with the New Mexico Agreement State Program

Ms. Rachel Browder led the discussion of the results of the periodic meeting held with the New Mexico Radiation Control Bureau (Bureau) (ADAMS Accession Number: ML111187A225). The meeting was held in Santa Fe on June 7, 2011. Ms. Browder indicated that the last Integrated Materials Performance Evaluation Program (IMPEP) review was conducted in July 2009 and the review team recommended, and the MRB agreed, that the New Mexico Agreement State Program be found adequate to protect public health and safety, and compatible with NRC's program. The MRB agreed that the next IMPEP review take place in 2013 with a periodic meeting to be held in July 2011. Ms. Browder also pointed out that NRC had sent two letters of support for the program in the last two years, and reported that the State is taking steps to ensure the Bureau has sufficient resources and oversight to protect public health and safety.

During the periodic meeting, Ms. Browder stated that staff found the Bureau had made progress on the two recommendations made during the previous IMPEP review. She noted that the Bureau utilizes a database to track all NRC reportable and non-reportable

Enclosure

events to ensure timely and accurate information in the Nuclear Materials Events Database (NMED).

Ms. Browder noted the Bureau's strength as having a well experienced staff with a wide array of experience. She also stated that the State has undergone reorganization resulting in the Bureau being moved under the New Mexico Environmental Protection Division, which the Bureau has found beneficial. She noted that the State has experienced significant staff losses with 5 staff vacancies at the time of the meeting. However, the Bureau reported that there were no overdue inspections, licensing actions or regulations currently. MRB members questioned the status of the staffing vacancies to which the Bureau responded that they have interviewed three individuals and are in the process of making them offers for employment.

During the review period, the Bureau reported and responded to two medical events. Both were appropriately reported and updated in the NMED system.

NRC staff recommended, and the MRB agreed, that the next IMPEP review be held as currently scheduled in FY 2013.

Periodic Meeting with the North Carolina Agreement State Program

Ms. Monica Orendi led the discussion of the results of the periodic meeting held with the North Carolina Department of Environment and Natural Resources (ADAMS Accession Number: ML110960343). The meeting was held in Raleigh on March 15, 2011. Ms. Orendi stated that the last IMPEP review was conducted in February 2009, and the review team recommended, and the MRB agreed, that the North Carolina Agreement State Program be found adequate to protect public health and safety, and compatible with NRC's program. The MRB agreed that the next IMPEP review take place in four years with a periodic meeting to be held in early 2011.

During the periodic meeting, Ms. Orendi stated that staff found the North Carolina Program had made progress on the two recommendations made during the previous IMPEP review in that they have addressed the weaknesses in their current incident response database, are beta testing the NRC web based licensing system; and have designated one individual to be responsible for rulemaking activities. She also reported that they acquired four new technical staff since the last IMPEP and are in the process of cross training staff to perform both licensing and inspection activities. Ms. Orendi noted that the Program had no overdue inspections or licensing actions, and had five regulations overdue at the time of the meeting. Mr. Cox indicated that NC has added a staff position to perform regulatory review activities.

NRC staff concluded that North Carolina continues to maintain a strong Agreement State program, and has received satisfactory ratings in all performance indicators for the last four IMPEP reviews. NRC staff recommended, and the MRB agreed, that the next IMPEP review be extended (for high performance) and conducted in FY 2014.

Periodic Meeting with the Georgia Agreement State Program

Ms. Orendi led the discussion of the results of the periodic meeting held with the Georgia Department of Natural Resources (ADAMS Accession Number: ML111510911). The meeting was held in Atlanta on April 26, 2011. Ms. Orendi stated that the last IMPEP review was conducted in September 2008 and the review team recommended, and the MRB agreed, that the Georgia Agreement State program be found adequate to protect public health and safety, but needs improvement, and compatible with NRC's program. The MRB directed NRC staff to initiate a period of monitoring with quarterly calls to be held between Georgia and NRC staff. The MRB directed that a periodic meeting occur one year following the 2008 IMPEP review. Based on that periodic meeting, the MRB directed that the next IMPEP review take place in FY 2012.

During this periodic meeting, Ms. Orendi stated that Georgia had made progress on three of the four recommendations. She noted that the State has not been able to fill the vacancy for an SS&D reviewer, and with current budget restrictions, it appears doubtful that this position will be filled in the near term. The MRB asked about a path forward to closing this recommendation as it has been open since the 2004 IMPEP review. Ms. Long stated that it will depend on future budget allowances, but as for the present, she performs second reviews of all SS&D sheets. Ms. Long further stated that they are considering qualifying a second staff member to perform these reviews or requesting assistance from other Agreement States. In addressing the other recommendations from the 2008 IMPEP review, Ms. Orendi reported that the Program has developed and implemented a policy and procedure for the formal qualification of staff, has updated inspection procedures to include the guidance found in FSME's RCPD-07-006 letter for Increased Controls violations; and that Ms. Long reported that she conducted annual accompaniments of staff for calendar year 2010. Ms. Orendi reported that, at the time of the periodic meeting, there were 15 Priority 1, 2 and 3 inspections overdue by more than 25 percent of the assigned inspection interval. The MRB questioned the percentage of Priority 1,2 and 3 inspections that were overdue at this time. Ms. Long could not supply the exact percentage, but estimated that it was less than 20 percent of the total inspections for those priorities. Ms. Orendi further reported that the Program currently has 17 overdue licensing actions (greater than one year). Ms. Orendi summarized that staffing vacancies continue to impact the Program, and that the Program's focus is on reducing the inspection backlog. NRC staff recommended, and the MRB agreed, that the period of monitoring continue; and that the next IMPEP review be held as currently scheduled in FY 2013 (tentatively October 2012).

Comments. Ms. Carpenter restated the MRB's decisions to maintain the next IMPEP reviews for Georgia and New Mexico as currently scheduled in Fiscal Year 2013, and for North Carolina in Fiscal Year 2014.

Mr. Robert Lewis requested that the New Mexico Periodic Meeting Summary contain clarification that the acronym "NMED" stands for "Nuclear Materials Event Database" on pages 1 and 2 of the summary report as opposed to "New Mexico Environment Department" as indicated otherwise in the report.

In addition, the budget and funding section of the New Mexico Periodic Meeting Summary did not accurately reflect changes in funding. To clarify, the radioactive materials program that is operated under the Agreement pursuant to the Section 274 of the Atomic Energy Act of 1954, as amended, is fully fee funded. While the state's general fund has been reduced, this reduction has not affected the funding for the program. It is also important to note that within the Environmental Protection Division, the Director is able to move funds around within the Division as appropriate.

Mr. Robert Lewis noted that the status for recommendations in some of the Periodic Meeting Summary Reports were summarized as "this recommendation should be verified and closed at the next IMPEP review" or "this recommendation remains open" while others did not include this statement. IMPEP project management indicated that FSME/MSSA is presently revising the procedure for periodic meetings and is evaluating and proposing new language to use in the periodic summary reports to describe the status of recommendations.

3. **Precedents/Lessons Learned.** IMPEP project management pointed out that Periodic Meeting summary reports are in final form, therefore any corrections or clarifications requested by the MRB will be noted in the meeting minutes.
4. **Adjournment.** The meeting was adjourned at 2:50 p.m.