

November 8, 2012

MEMORANDUM TO: Michael F. Weber
Deputy Executive Director for Materials, Waste,
Research, State, Tribal, and Compliance Programs
Office of the Executive Director for Operations

Lisa G. London, Attorney
for Reactor and Materials Rulemaking
Office of the General Counsel

Brian E. Holian, Deputy Director
Office of Federal and State Materials
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Cynthia D. Pederson, Deputy Regional Administrator
Region III

FROM: Michelle Beardsley, Health Physicist */RA/*
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: MINUTES: SEPTEMBER 6, 2012 KENTUCKY
MANAGEMENT REVIEW BOARD (MRB) MEETING

Enclosed are the minutes of the MRB meeting held on September 6, 2012. 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.: Steve Davis, M.D., Commissioner
Department for Public Health

Matthew W. McKinley, Administrator
Radiation Health Program

Jennifer Opila, Colorado
Organization of Agreement States
Liaison to the MRB

Management Review Board Members

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF SEPTEMBER 6, 2012

The attendees were as follows:

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

Michael Weber, MRB Chair, DEDMRT
Brian Holian, MRB Member, FSME
Lisa London, MRB Member, OGC
Rachel Browder, Team Leader, RIV
Monica Orendi, Team Member, RI
Lymari Sepulveda, Team Member, FSME
Matthew McKinley, KY

Brian McDermott, FSME
Duncan White, FSME
Michelle Beardsley, FSME
Karen Meyer, FSME
Kathleen Schneider, FSME
Stephen Poy, FSME
Joan Olmstead, FSME
Margie Kotzalas, OEDO

By videoconference:

Cynthia Pederson, MRB Member, RIII

James Lynch, RIII

By telephone:

Jennifer Opila, MRB Member, CO
Joe Nick, Team Member, RI
James Harris, Team member, KS

Dan Collins, RI
Curt Pendergrass, KY

1. **Convention.** Ms. Michelle Beardsley convened the meeting at 1:00 p.m. (ET). She noted that this Management Review Board (MRB) meeting was open to the public; however, no members of the public participated in this meeting. Ms. Beardsley then transferred the lead to Mr. Michael Weber, Chair of the MRB. Introductions of the attendees were conducted.
2. **Kentucky IMPEP Review.** Ms. Rachel Browder, Team Leader, led the presentation of the Kentucky Integrated Materials Performance Evaluation Program (IMPEP) review results to the MRB. She summarized the review and the team's findings for the eight indicators reviewed. The on-site review was conducted by a review team composed of technical staff members from the NRC and the State of Kansas during the period of June 11-15, 2012. Prior to the onsite review, the team conducted inspection accompaniments. A draft report was issued to the State for factual comment on July 13, 2012. The State responded to the review team's findings by letter dated August 7, 2012. The last IMPEP review for Kentucky was conducted in July 2008.

Ms. Browder further stated that the team evaluated and closed all recommendations made during the previous IMPEP review as stated in Section 2.0 of the final report. The MRB questioned the team regarding their evaluation and closure of Recommendation Number 2. The team confirmed that in addition to evaluating inspection reports, they also observed the State inspectors' implementation of the corrective actions during inspection accompaniments. The MRB requested that this be added to the report..

Common Performance Indicators. Ms. Monica Orendi presented the findings regarding the common performance indicator, *Technical Staffing and Training*. Her presentation corresponded to Section 3.1 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 noted that the State was able to promptly fill vacancies and requested that clarification be added to the final report regarding staffing numbers. The MRB agreed that Kentucky's performance met the criteria for a "satisfactory" rating for this indicator.

Ms. Orendi 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 Kentucky's performance with respect to this indicator to be "unsatisfactory" and made no recommendations. The MRB expressed concern as to the number of overdue inspections and questioned the team as to why they did not make a recommendation. The team responded that they discussed this issue and felt that a recommendation was not warranted as the State had taken action prior to the review by improving their existing database system to better track inspection timeliness. The team expressed their concern that State managers were not aware of the number of overdue inspections until the onsite review. The MRB questioned the State regarding their oversight in this matter. Mr. McKinley responded that while they were aware of the overdue inspection criteria, they did not realize that their percentage of overdue inspections had exceeded the criteria limit. He further stated that there are no current or past due inspections at this time. The MRB directed that the final report be revised to add discussion regarding this matter, and also directed that a recommendation be made to address management oversight of the inspection program. The report was revised to add the following:

"The MRB directed that a recommendation be made for the Branch to perform a self-assessment to determine the effectiveness of its oversight of the inspection program. The results of this self-assessment would be discussed at the next periodic meeting."

The MRB agreed that Kentucky's performance met the criteria for an "unsatisfactory" rating for this indicator.

Mr. Joe Nick 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 Kentucky's performance with respect to this indicator to be "satisfactory" and made no recommendations. The MRB directed that the report be revised to clarify the statement regarding the performance of supervisory accompaniments. The report was revised as follows:

"Supervisory accompaniments of Branch inspectors were conducted in the review period. Some inspectors did not have supervisory accompaniments in 2011. In addition, the documentation for inspector accompaniments in 2009 and 2010 could not be located. However, at least four inspectors were accompanied during this two-year period as determined through other methods of documentation including inspection reports, staff interviews and notes to file."

The MRB agreed that Kentucky's performance met the criteria for a "satisfactory" rating for this indicator.

Mr. James Harris 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 no recommendations. The MRB questioned the State as to its evaluation of licenses requiring financial assurance as stated in the report. Mr. McKinley responded that they are in the process of addressing the need for financial assurance on all licenses. The MRB agreed that Kentucky's performance met the criteria for a "satisfactory" rating for this indicator.

Ms. Rachel Browder presented the findings regarding the common performance indicator, *Technical Quality of Incident and Allegation Activities*. Her 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 criteria for a "satisfactory" rating for this indicator.

3. **Non-Common Performance Indicators.** Ms. Orendi presented the findings regarding the non-common performance indicator, *Compatibility Requirements*. Her presentation corresponded to Section 4.1 of the proposed final IMPEP report. The review team found Kentucky's performance with respect to this indicator to be "satisfactory, but needs improvement" and made no recommendations. The MRB requested that clarification be added to the report regarding the team's statement that the State has made significant progress on regulation adoption since the last IMPEP review. The report was revised as follows:

"At that time, the Commonwealth had 16 amendments, which ranged from one to ten years overdue. At the time of this review, the following five amendments were overdue."

The MRB agreed that Kentucky's performance met the criteria for a "satisfactory, but needs improvement" rating for this indicator.

Ms. Lymari Sepulveda presented the findings regarding the non-common performance indicator, *Sealed Source and Device Evaluation Program (SS&D)*. Her presentation corresponded to Section 4.2 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 criteria for a "satisfactory" rating for this indicator.

4. **MRB Consultation/Comments on Issuance of Report.** The MRB found the Kentucky Agreement State Program "adequate to protect public health and safety, but needs improvement" and "compatible with NRC's program." Based on the results of the current IMPEP review, the MRB agreed that the next IMPEP review of the Kentucky Agreement State Program should take place in approximately 4 years; however, the MRB disagreed

with the team's recommendation that two periodic meetings be conducted. The MRB directed that one periodic meeting be conducted in approximately two years to give the State adequate time to assess and improve its performance. The MRB also agreed with the team's recommendation that the State remain on Monitoring to provide continued assurance that the program maintains sustained performance in the area of timely inspections and promulgation of the required regulations.

5. **Precedents/Lessons Learned.** The MRB established no new precedents during this meeting.
6. **Adjournment.** The meeting was adjourned at approximately 4:37 p.m. (ET)