

November 19, 2004

MEMORANDUM TO: Management Review Board Members

Martin J. Virgilio, EDO
Paul H. Lohaus, STP
Joseph R. Gray, OGC
Thomas H. Essig, NMSS

FROM: Osiris Siurano, Health Physicist **/RA/**
Office of State and Tribal Programs

SUBJECT: MINUTES: OCTOBER 12, 2004 KENTUCKY MRB MEETING

Attached are the minutes of the Management Review Board (MRB) meeting held on October 12, 2004. If you have comments or questions, please contact me at 415-2307.

Attachment:
As stated

cc: Robert Johnson, KY
Alice Rogers, TX, OAS Liaison

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF OCTOBER 12, 2004

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

Martin Virgilio, MRB Chair, EDO
Joseph Gray, MRB Member, OGC
Duncan White, Team Leader, NRC-RI
John Zabko, STP
Richard Blanton, Team Member, STP
Robert Johnson, KY
Osiris Siurano, STP

Paul Lohaus, MRB Member, STP
Thomas Essig, MRB Member, NMSS
Kathleen Schneider, STP
Aaron McCraw, STP
William Rautsen, STP
Isabelle Schoenfeld, EDO

By videoconference:

Randy Erickson, Team Member, NRC-RIV

By teleconference:

Alice Rogers, OAS Liaison, TX
Muhammadali Abbaszadeh, Team Member, TX

Sheri Minnick, NRC-RI
Karl Von Ahn, Team Member, OH

1. **Convention.** Mr. Martin Virgilio, Chair of the Management Review Board (MRB) convened the meeting at 2:03 p.m. He summarized the meeting's proceedings. Introductions of the attendees were conducted.
2. **Kentucky IMPEP Review.** Mr. Duncan White, Regional State Agreements Officer, NRC Region I, led the Integrated Materials Performance Evaluation Program (IMPEP) team for the Kentucky IMPEP review.

Mr. White summarized the review and noted the findings. Preliminary work included a review of Kentucky's response to the IMPEP questionnaire. Inspector accompaniments were performed during June 1-4, 2004. The onsite review was conducted July 19-23, 2004 and included an entrance interview, review of applicable Kentucky statutes and regulations, analysis of quantitative information from the State's licensing and inspection data base, technical evaluation of selected licensing and inspection actions, field accompaniments of four Branch inspectors, and interviews with staff and management to answer questions or clarify issues. The team issued a draft report on August 25, 2004; received Kentucky's comment letter dated September 24, 2004; and submitted a proposed final report to the MRB on October 5, 2004. He noted that four recommendations from the previous (July 2000) IMPEP review were closed at this review. Mr. White provided background information on the program's staff turnover, management changes and the status of the Branch at the time of the review. He commented on a self audit performed by the Branch, which had previously identified several of the findings of this IMPEP review. He noted that the Branch is already implementing an action plan developed as a result of the findings of the Branch's self audit.

Common Performance Indicators. Mr. Richard Blanton 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 team found Kentucky's performance with respect to this indicator to be "satisfactory" and made no recommendations. A discussion on the adequacy of Full Time Equivalents (FTEs) devoted to the Branch was held. The MRB expressed concerns on the adequacy of the quantity of FTEs devoted to the Branch. Mr. Johnson explained that, as described in the Branch's action plan, 7 FTEs will be devoted to the Branch once the corrective actions are completed. The MRB directed that this information be included in the report. A discussion on the Branch's limited documentation of staff training and experience was held. The MRB inquired why a recommendation to improve staff training and experience documentation was not made. Mr. Blanton explained that the team considered such a recommendation but declined to make it since the Branch had already identified this in its action plan and begun work in this area. The MRB asked if there had been previous examples where IMPEP teams used discretion and took into account actions by the State for identifying and initiating corrective actions for performance issues identified and recommend an overall health and safety finding at a higher category. Ms. Schneider explained that, indeed, there were previous instances where IMPEP teams had used their discretion to make similar decisions for individual performance indicators, such as the 2001 Mississippi review. The MRB agreed that Kentucky's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Randy Erickson presented the findings regarding the common performance indicator, Status of Materials Inspection Program. His 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 "satisfactory" with a recommendation that the Branch upgrade their database so that all relevant licensee data be incorporated and maintained to ensure inspections can be scheduled and performed in accordance with the requirements of NRC Manual Chapter 2800. A discussion on the high number of overdue initial inspections was held. Mr. Johnson explained that a separate database on initial inspections was maintained by the previous Branch manager, which he did not share with the staff prior to his retirement. The staff was unaware that the information on initial inspection was separate from the rest of the database on inspections. Mr. Johnson explained that this issue was addressed and initial inspections are now due and performed six months after the license is issued. The MRB agreed that Kentucky's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Erickson also 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. A short discussion on the failure of two licensees to respond to the Branch's inspection correspondence and lack of the Branch's follow up was held. The lack of Branch follow up occurred during the transition period of high staff turnover. The IMPEP review team did not identify any safety issues due to the licensees' failure to respond. Mr. Johnson explained that this has been identified in the action plan and will be addressed by enhancing the Branch's inspection tracking system. The MRB agreed that Kentucky's performance met the standard for a "satisfactory" rating for this indicator.

Mr. White 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 team found Kentucky's performance with respect to this indicator to be "satisfactory" and made one recommendation. The review team recommended that the Branch identify licensees that require financial assurance and take appropriate action to have them comply with the Commonwealth's decommissioning and financial assurance requirements. The review team identified three licenses with possession limits requiring financial assurance but the licenses had not provided either a decommissioning funding plan or financial assurance. A discussion on the root causes of this issue was held. Mr. Johnson provided information on initiatives the Branch is implementing to address the issue, which include revision of the Branch's procedures. The MRB agreed that Kentucky's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Blanton 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 Kentucky's performance with respect to this indicator to be "satisfactory, but needs improvement," and made one recommendation. The review team recommended that the Branch document incident and allegation responses in accordance with their procedures and provide training on the procedures to all technical staff. A discussion of the Branch's follow up of incidents and allegations was held. The review team found that procedures for documenting incidents and allegations had not been followed since 2002. The safety significance of three incidents was discussed. One of the incidents was considered to be safety significant. In response to the MRB discussion, the team noted that the Branch's procedures were adequate, but not used by the Branch staff. This happened as a result of the Branch's management turn over and lack of previous management follow up. The team explained that this is the basis for their recommendation. Retraining of staff on incidents and allegation procedures was also identified during the Branch's self audit and, subsequently, included in the action plan. The MRB agreed that Kentucky's performance met the standard for a "satisfactory, but needs improvement" rating for this indicator.

Non-Common Performance Indicators. Mr. White led the discussion of the non-common performance indicator, Compatibility Requirements. His discussion corresponded to Section 4.1 of the proposed final IMPEP report. The team found Kentucky's performance to be "satisfactory, but needs improvement," and made no recommendations. The review team did not make any recommendations since the Branch's action plan specifies schedules for adoption of all overdue NRC amendments during 2005. The MRB agreed that Kentucky's performance met the standard for a "satisfactory, but needs improvement" rating for this indicator.

Mr. Karl Van Ahn led the discussion of the non-common performance indicator, Sealed Source and Device Evaluation Program. His discussion corresponded to Section 4.2 of the proposed final IMPEP report. The team found Kentucky's performance to be "satisfactory, but needs improvement" for this indicator and made four recommendations. The review team recommended: (1) that the Branch establish, implement and document a training program for SS&D reviewers; (2) that the

registration certificate evaluation criteria and document format be consistent with NUREG 1556, Volume 3; (3) that the Branch review and determine the status of SS&D registrations issued to non-Kentucky manufacturers and take appropriate action to either update or inactivate the registration certificates; and (4) that the Branch implement an enforceable mechanism to have the manufacturers report defects, deviations or non-conformance of safety-related systems, structures, or components and document follow-up actions. A discussion on the SS&D training program was held. Currently, there is no formal training nor documentation of training within the Branch. There is on the job training only. The potential implications of having Agreement States requiring manufacturers under their jurisdiction report defects, deviations and items of non-conformance for devices which they have issued SS&D registry sheets without the benefit of a compatibility requirement was discussed. It was noted that some Agreement States apply this requirement as either a regulation or legally binding requirement. The MRB recommended that NMSS/STP/OGC review the basis for the lack of a compatibility requirement for reporting defects, deviations and items of non-conformance for devices registered by Agreement States and make appropriate recommendations if the lack of such a requirement results in gaps in the National Materials Program. The MRB directed that this information be included in the final report. The MRB agreed that Kentucky's performance met the standard for a "satisfactory, but needs improvement" rating for this indicator.

Mr. Mohammadali Abbaszadeh led the discussion of the non-common performance indicator, Low Level Radioactive Waste Disposal program. His discussion corresponded to Section 4.3 of the proposed final IMPEP report. The team found Kentucky's performance to be "satisfactory" and made no recommendations. The MRB agreed that Kentucky's performance met the standard for a "satisfactory" rating for this indicator.

MRB Consultation/Comments on Issuance of Report. Mr. White concluded, based on the discussion and direction of the MRB, that the Kentucky Program was rated "satisfactory" for the common performance indicators: Technical Staffing and Training, Status of Materials Inspection Program, Technical Quality of Inspections, Technical Quality of Licensing Actions and the non-common performance indicator Low Level Radioactive Waste Disposal Program. The Kentucky Program was rated "satisfactory, but needs improvement," for the common performance indicator Technical Quality of Incident and Allegation Activities, and the non common performance indicators Compatibility Requirements and Sealed Source and Device Evaluation Program. The review team recommended that a periodic meeting to assess the Branch's success be held in one year instead of the normal two years and a full IMPEP review in four years. The MRB directed that this be reflected in the final report. The MRB found the Kentucky Agreement State Program to be adequate and compatible with NRC's program and agreed with the review team's recommendations.

Comments. Mr. White thanked the review team for their job and commitment to complete their task and the State for its cooperation during the review. Mr. Johnson thanked the team and the MRB for their professionalism and cooperation. Mr. Van Ahn, Ms. Alice Rogers and Mr. Abbaszadeh thanked the MRB for the opportunity to participate in the onsite review and the MRB. The MRB thanked the IMPEP review team

and Kentucky for their efforts. The MRB also highlighted Kentucky's initiatives to identify their Program's weaknesses and development, and implementation, of an action plan to correct performance issues.

3. **Status of Current and Upcoming Reviews.** Mr. McCraw briefly commented that the New Hampshire final IMPEP report was issued. He reported that the North Carolina MRB will be held on November 1, 2004, and the Ohio IMPEP review will take place during the week of October 25-29, 2004. He also commented that the California Program Improvement Plan had been reviewed and a response letter is about to be mailed. He also informed that a conference call with New Hampshire will take place next November. The most recent Rhode Island quarterly call took place on October 5, 2004. The MRB asked for an update on the Rhode Island heightened oversight and Mr. White reported that the Program has continued to complete its goals according to its improvement plan. As such, removing the State from heightened oversight will be considered based on the results of the periodic meeting with the State scheduled for March 2005.
4. **Precedents/Lessons Learned.** No precedents that will be applied to the IMPEP process in the future were established by the MRB during this review.
5. **Good Practices.** No good practices were identified during this review.
6. **Adjournment.** The meeting was adjourned at approximately 3:17 p.m.