

June 20, 2003

MEMORANDUM TO: Management Review Board Members:  
  
Carl J. Paperiello, EDO  
Paul H. Lohaus, STP  
Martin J. Virgilio, NMSS  
Karen D. Cyr, OGC

FROM: Lance J. Rakovan, Health Physicist */RA/*  
Office of State and Tribal Programs

SUBJECT: FINAL MINUTES: NEW YORK MRB MEETING

Attached are the final minutes of the Management Review Board (MRB) meeting held on November 5, 2002. If you have comments or questions, please contact me at 415-2589.

Attachment:  
As stated

cc: Gene Miskin, NYC  
Clayton Bradt, DOL  
Steve Gavitt, DOH  
Paul Merges, DEC  
Bill Sinclair, UT

Management Review Board Members

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF NOVEMBER 5, 2002

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

Carl Paperiello, MRB Chair, EDO  
Martin Virgilio, MRB Member, NMSS  
James Lynch, Team Leader, RIII  
Deborah Piskura, Team Member, RIII  
Steve Gavitt, NY  
Gene Miskin, NY  
Josephine Piccone, STP  
Isabelle Schoenfeld, EDO  
Mary Lynn Scott, STP  
Lance Rakovan, STP

Paul Lohaus, MRB Member, STP  
Karen Cyr, MRB Member, OGC  
Duncan White, Team Member, RI  
Barbara Hamrick, Team Member, CA  
Robert Dansereau, NY  
Paul Merges, NY  
Patricia Larkins, STP  
Linda Psyk, NMSS  
Andrew Mauer, STP

By videoconference:

David Collins, Team Member, RII

Anthony Gaines, Team Member, RIV

By teleconference:

William Sinclair, OAS Liaison, UT  
Cynthia Costello, NY  
Clayton Bradt, NY

Adela Salame-Alfie, NY  
Alyse Peterson, NY

1. **Convention.** Carl Paperiello, Chair of the Management Review Board (MRB), convened the meeting at 1:10 p.m. Introductions of the attendees were conducted.
2. **Consideration of the New York Report.** Mr. James Lynch, RSAO Region III, led the Integrated Materials Performance Evaluation Program (IMPEP) team for the New York review.

Mr. Lynch summarized the review and noted the findings. Preliminary work included a review of New York's response to the IMPEP questionnaire. The onsite review was conducted July 15-26, 2002. The onsite review included entrance interviews, detailed audits of a representative sample of completed licensing actions and inspections, and follow-up discussions with staff and management. Following the review, the team issued a draft report on September 12, 2002; received New York's comments by letter dated October 4, 2002 for Department of Environmental Conservation (DEC); by letter dated October 21, 2002 for New York State Department of Health (DOH); by electronic mail dated October 24, 2002 New York State Department of Labor (DOL); and by electronic mail dated October 28, 2002 for City Department of Health (NYC); and submitted a proposed final report to the MRB on October 30, 2002.

Mr. Lynch detailed how this review differed from the previous New York IMPEP review. For this review, NRC evaluated the State as a single program, including giving only one rating for the State as a whole for each indicator. Mr. Lynch noted that he would be presenting the findings for each of the indicators, but team members were available to address specific comments. He noted that although a larger single review team was used for this review of the New York program, the total number of review team members was decreased. The time to conduct the review was reduced from approximately four

weeks to two weeks and the period of time over which the review was conducted was reduced by months.

Mr. Lynch noted that though a number of recommendations from previous reviews were closed by the team, three recommendations remained open and one recommendation was closed, but a similar recommendation was made in the report.

**Common Performance Indicators.** Mr. Lynch discussed the common performance indicator, Status of the Materials Inspection Program. His presentation corresponded to Section 3.1 of the IMPEP report. The review team found New York's performance with respect to this indicator "satisfactory with recommendations for improvement" and made three recommendations. The MRB, the team, and the State discussed the amount of time late inspections were conducted overdue and the impacts of September 11, 2001 on the State of New York. The MRB questioned Ms. Hamrick and NYC about their process for choosing reciprocity inspections. The MRB directed that the spirit of the recommendation involving reciprocity inspections remain, but the recommendation itself be removed from the report. The MRB agreed that New York's performance met the standard for a "satisfactory with recommendations for improvement" rating for this indicator.

Mr. Lynch presented the common performance indicator, Technical Quality of Inspections. His presentation corresponded to Section 3.2 of the report. The team found that New York's performance was "satisfactory" for this indicator and made two recommendations. Mr. Lynch noted that the ten accompaniments performed of inspectors from all programs were adequate. The MRB, the review team, and Mr. Miskin discussed NYC's process for writing inspection findings and notices of violation. Mr. Miskin agreed that the process needed improvement and stated that NYC was already in the process of reviewing and revising the process. The MRB directed that the report, as well as the recommendation involving this issue, be revised to focus on NYC's process, not their supervision of the process. After a brief discussion involving annual inspector accompaniments, the MRB agreed that New York's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Lynch presented the findings regarding the common performance indicator, Technical Staffing and Training. His presentation corresponded to Section 3.3 of the IMPEP report. The team found that New York's performance with respect to this indicator was "satisfactory" and made no recommendations. The MRB agreed that New York's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Lynch presented the findings regarding the common performance indicator, Technical Quality of Licensing Actions. He summarized the findings in Section 3.4 of the report. The team found New York's performance to be "satisfactory" for this indicator and made one recommendation involving NYC reviewing all licenses to ascertain if they require financial assurance. The MRB and Mr. Lynch discussed various problems involving license possession limits. The MRB noted a trend of data tracking and filing problems in the NYC program. Mr. Miskin stated that there are glitches in their in-house database and that NYC files have been a historical problem. The MRB agreed

that New York's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Lynch presented the findings regarding the final common performance indicator, Response to Incidents and Allegations. As discussed in Section 3.5 of the report, the team found New York's performance relative to this indicator to be "satisfactory with recommendations for improvement" and made two recommendations. Mr. Lynch briefly described how the team revised the report in response to DOH's comments on this Section pertaining to the tone of the report, the information provided to the review team, and amount of time taken to discuss incident response during the on-site review. Mr. Gavitt noted that he appreciated the changes in the report and he thought the review team did a adequate review. He stated that the DOH files could be of better quality and that some of the interoffice communications were not included in the files, but that DOH is doing a good job responding to incidents. The MRB and the State agencies discussed the "philosophical differences" with Nuclear Materials Event Database (NMED) reporting that is mentioned in the report. Mr. Gavitt indicated that the State's priorities are first to respond to the event, next to deal with any potential transboundary issues, and finally to get the information to the NRC for events that are not high priority. The MRB stressed the importance of reporting information to be included in NMED. The State questioned the MRB on how to close out events in NMED and what benefit there was for State participation. The MRB said that NRC would look into how events can be closed out, and discussed the reports that are assembled using NMED information. The MRB agreed that New York's performance met the standard for a "satisfactory with recommendations for improvement" rating for this indicator.

**Non-Common Performance Indicators.** Mr. Lynch led the discussion of the non-common performance indicator, Legislation and Program Elements Required for Compatibility, which is summarized in Section 4.1 of the report. The team found New York's performance relative to this indicator to be "satisfactory with recommendations for improvement" and made one recommendation. The MRB and the State discussed the termination rule, legally binding requirements, and the new Part 35. The MRB agreed that New York's performance met the standard for a "satisfactory with recommendations for improvement" rating for this indicator.

Mr. Lynch led the discussion of the non-common performance indicator, Sealed Source and Device Evaluation Program, which is summarized in Section 4.2 of the report. The team found New York's performance relative to this indicator to be "satisfactory" and made no recommendations. The MRB agreed that New York's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Lynch led the discussion of the non-common performance indicator, Low-Level Radioactive Waste Disposal Program, which is summarized in Section 4.3 of the report. The team found New York's performance relative to this indicator to be "satisfactory" and made no recommendations. The MRB agreed that New York's performance met the standard for a "satisfactory" rating for this indicator.

**MRB Consultation/Comments on Issuance of Report.** Mr. Lynch concluded, based on the discussion and direction of the MRB, that New York's performance was

satisfactory for five performance indicators, and satisfactory with recommendations for improvement for the indicators: 1) Status of Materials Inspection Program; 2) Response to Incidents and Allegations; and 3) Legislation and Program Elements Required for Compatibility.

The review team recommended that the State be found adequate, but needs improvement, and compatible with NRC's program. The MRB, the review team, and the State discussed how looking at the New York program as a whole may lead to losing focus on the deficiencies in the NYC program. The MRB noted the improvements the NYC program has achieved since the last IMPEP review. Each of the New York agencies agreed to work on their event reporting. The MRB found the New York Agreement State program to be adequate to protect public health and safety and compatible with NRC's program. Based on the results of the current IMPEP review, the review team recommended, and the MRB agreed, that the next full review should be in approximately four years.

**Comments.** Mr. Lynch thanked the New York agencies for working with such a large review team. The MRB thanked the team and each of the State agencies for their efforts. Mr. Gavitt thanked the team and noted that he appreciated their comments. He reflected upon his own experiences as an IMPEP team member. Mr. Merges thanked the team as well. Mr. Bradt stated that the team could come back at any time. Mr. Miskin noted that this was his first IMPEP as NYC director, and that it was a good experience. Ms. Hamrick thanked the State agencies and the team.

3. **Results of Periodic Meetings.** Lance Rakovan briefly discussed recent periodic meetings for the States of Ohio (ML022600332), and Illinois (ML023290234).
4. **Status of IMPEP Reviews and Heightened Oversight/Monitoring Activities.** Mr. Rakovan briefly discussed upcoming MRB meetings and reviews.
5. **Precedents/Lessons Learned.** No precedents that will be applied to the IMPEP process in the future were established by the MRB during this review.
6. **Good Practices.** No good practices were identified during this review.
7. **Adjournment.** The meeting was adjourned at approximately 3:10 p.m.