

February 8, 2005

MEMORANDUM TO: Management Review Board Members:

Martin J. Virgilio, EDO  
Paul H. Lohaus, STP  
Karen Cyr, OGC  
Patricia Holahan, NMSS

FROM: Aaron T. McCraw, Health Physicist */RA/*  
Office of State and Tribal Programs

SUBJECT: MINUTES: SEPTEMBER 28, 2004 NEW HAMPSHIRE  
MRB MEETING

Attached are the minutes of the Management Review Board (MRB) meeting held on September 28, 2004. If you have comments or questions, please contact me at 415-1277.

Attachment:  
As stated

cc: Mary Ann Cooney, NH  
Alice Bruning, NH  
Dennis O'Dowd, NH  
Roland Fletcher, MD, OAS Liaison

Management Review Board Members

Distribution:

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KSchneider, STP  
JZabko, STP  
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DWhite, RI  
JHarris, KS

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF SEPTEMBER 28, 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  
Karen Cyr, MRB Member, OGC  
Kathleen Schneider, Team Leader, STP  
Josephine Piccone, STP  
Aaron McCraw, STP  
Mary Ann Cooney, NH

Paul Lohaus, MRB Member, STP  
Patricia Holahan, MRB Member, NMSS  
Duncan White, Team Member, Region I  
John Zabko, STP  
Richard Struckmeyer, NMSS  
Isabelle Schoenfeld, EDO

By teleconference:

Roland Fletcher, OAS Liaison, MD  
Alice Bruning, NH  
Twila Kenna, NH  
George Pangburn, Region I

James Harris, Team Member, KS  
Dennis O'Dowd, NH  
A. Banerjee, NH  
Sheri Minnick, Region I

1. **Convention.** Mr. Martin Virgilio, Chair of the Management Review Board (MRB) convened the meeting at 1:03 p.m. He summarized the meeting's proceedings. Introductions of the attendees were conducted.
2. **New Hampshire IMPEP Review.** Ms. Kathleen Schneider, STP, led the Integrated Materials Performance Evaluation Program (IMPEP) team for the New Hampshire IMPEP review.

Ms. Schneider summarized the review and noted the findings. Preliminary work included a review of New Hampshire's response to the IMPEP questionnaire. Inspector accompaniments were performed the week of June 7, 2004. The on-site review was conducted June 21-25, 2004 and included an entrance interview, review of applicable New Hampshire statutes and regulations, analysis of quantitative information from the State's licensing and inspection data base, technical evaluation of selected licensing and inspection actions, and interviews with staff and management to answer questions or clarify issues. The team issued a draft report on July 21, 2004; received New Hampshire's comment letter dated August 11, 2004; and submitted a proposed final report to the MRB on September 14, 2004. She noted that two of four recommendations from the 2003 follow-up IMPEP were closed. Two recommendations will remain open and were discussed during the corresponding performance indicator presentations.

Ms. Schneider provided a brief history of the program's period of heightened oversight and summarized some of the improvements made during that time as the State continues to restore the program to the IMPEP criteria in Management Directive 5.6.

**Common Performance Indicators.** Ms. Schneider 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 team found New Hampshire's performance with respect to this indicator to be "satisfactory, but needs

improvement” and made one recommendation. The team recommended that the State establish a plan for the new staff to promptly complete all training and qualification requirements in order to be qualified as independent license reviewers and inspectors. One recommendation remains open from the 2003 follow-up review regarding the evaluation and evolution of business processes within the Section. The MRB requested that the team update the language of this recommendation to reflect the State’s recent reorganization. The MRB, team, and State discussed the status of the two contractors, timeliness of training of two new staff members, and innovations in receiving help in qualifying inspectors by neighboring States. The MRB agreed that New Hampshire’s performance met the standard for a “satisfactory, but needs improvement” rating for this indicator.

Ms. Schneider 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 New Hampshire’s performance with respect to this indicator to be “satisfactory” and made no recommendations. The MRB agreed that New Hampshire’s performance met the standard for a “satisfactory” rating for this indicator.

Mr. Duncan White 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 New Hampshire’s performance with respect to this indicator to be “satisfactory” and made no recommendations. The MRB agreed that New Hampshire’s performance met the standard 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 team found New Hampshire’s performance with respect to this indicator to be “satisfactory” and initially made one recommendation. The review team recommended that the State immediately take action to bring the irradiator licensee into full compliance with 10 CFR Part 36 by adopting regulations, by license conditions, or by other legally binding requirements. Prior to the MRB meeting, the State took action to bring the licensee into compliance with Part 36 through license conditions. The State is currently in the process of adopting the requirements of Part 36 by reference. The team suggested that this recommendation be removed from the report based on the State’s action. The MRB agreed that New Hampshire’s performance met the standard for a “satisfactory” rating for this indicator and agreed that the recommendation be removed from the report.

Mr. White 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 New Hampshire’s performance with respect to this indicator to be “satisfactory” and made no recommendations. The MRB agreed that New Hampshire’s performance met the standard for a “satisfactory” rating for this indicator.

**Non-Common Performance Indicators.** Mr. White led the discussion of the non-common performance indicator, Compatibility Requirements. His discussion corresponds to Section 4.1 of the proposed final IMPEP report. The team found New Hampshire's performance to be "unsatisfactory" and left one recommendation from the previous review open. The review team recommended that the State develop and implement an action plan to adopt NRC regulations in accordance with current NRC policy on adequacy and compatibility. The team noted that this section of the report would be revised to reflect the State's actions in response to the irradiator regulations issue and other regulations packages the State has recently submitted for NRC review. The MRB discussed the proposed finding because a finding of "unsatisfactory" does not give the State credit for actions taken to improve the regulations program since the last review. However, the MRB concluded that the State is still behind in regulations and is not taking compensatory action to bring licensees to compliance with new requirements. The MRB agreed that New Hampshire's performance met the standard for an "unsatisfactory" rating for this indicator.

Mr. White led the discussion of the non-common performance indicator, Sealed Source and Device Evaluation Program. His discussion corresponds to Section 4.2 of the proposed final IMPEP report. The team found New Hampshire's performance to be "satisfactory" for this indicator and made one recommendation. The review team recommended that the State modify their training and qualification program to include requirements for individuals to evaluate SS&D applications and sign the registration sheets. The MRB agreed that New Hampshire's performance met the standard for a "satisfactory" rating for this indicator.

**MRB Consultation/Comments on Issuance of Report.** Ms. Schneider concluded, based on the discussion and direction of the MRB, that the New Hampshire Agreement State Program was rated "satisfactory" for four common performance indicators and one non-common performance indicator. The State was rated "satisfactory, but needs improvement" for the common indicator, Technical Staffing and Training, and was rated "unsatisfactory" for the non-common performance indicator: Compatibility Requirements. The MRB found the New Hampshire Agreement State Program to be adequate, but needs improvement and not compatible with NRC's program. The review team recommended that the period of heightened oversight be continued to assess the progress of the State. The team recommended that the State revise their program improvement plan. The schedule of bimonthly conference calls will continue, with a status report before each call. The review team also recommended a follow-up IMPEP review in one year. However, if the State completes the corrective actions in the program improvement plan in advance of the one-year mark, the NRC will support a review team to evaluate the State's performance. The MRB discussed the possibility of placing the State on probation if the performance of the State is not improved at the time of the next review. The MRB agreed with the review team's recommendations.

**Comments.** Ms. Schneider thanked the review team for their commitment to their task. She thanked the State for their cooperation during the review and commended the State in their efforts to improve their program. Mr. Roland Fletcher gave encouragement to the State to continue their efforts and expressed his appreciation in the opportunity to participate as the OAS Liaison to the MRB. Ms. Mary Ann Cooney thanked the team

and the MRB for their professionalism and cooperation and relayed that this was a great learning experience for her and the State. She also commended the NRC for assistance and support as the State works to restore the adequacy and compatibility findings. Mr. Harris stated that he enjoyed the experience of participating on an IMPEP team. The MRB thanked the review team and New Hampshire for their efforts.

3. **Status of Current and Upcoming Reviews.** Mr. Aaron McCraw provided the MRB with a status update of current and upcoming activities in IMPEP (i.e., recent issuance of reports and heightened oversight or monitoring calls).
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 2:30 p.m.