

August 1, 2007

MEMORANDUM TO: Martin J. Virgilio  
Deputy Executive Director for Materials, Waste,  
Research, State, Tribal, and Compliance Programs  
Office of the Executive Director for Operations

Charles L. Miller, Director  
Office of Federal and State Materials  
and Environmental Management Programs

Karen D. Cyr  
General Counsel

Samuel J. Collins, Regional Administrator  
Region I

FROM: Aaron T. McCraw, IMPEP Project Manager */RA/*  
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Division of Materials Safety and State Agreements  
Office of Federal and State Materials  
and Environmental Management Programs

SUBJECT: MINUTES: JUNE 25, 2007, NORTH DAKOTA  
MANAGEMENT REVIEW BOARD (MRB) MEETING

Enclosed are the minutes of the MRB meeting held on June 25, 2007. If you have comments or questions, please contact me at (301) 415-1277.

Enclosure: Minutes of the Management  
Review Board Meeting

cc: Gary Robertson, OAS Liaison, WA  
Terry O'Clair, ND

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<b>DATE</b>	8/1/07		

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF JUNE 25, 2007

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

Martin Virgilio, MRB Chair, DEDMRT  
Karen Cyr, MRB Member, OGC  
Aaron McCraw, DMSSA  
Sandra Wastler, DMSSA

Charles Miller, MRB Member, FSME  
Kathleen Schneider, Team Leader, DMSSA  
Michael Kunowski, OEDO

By Videoconference:

Samuel Collins, MRB Member, RI

John Kinneman, RI

By Tele-conference:

Gary Robertson, OAS Liaison, WA  
Barbara Taylor, Team Member, TX  
James Killingbeck, ND

Randy Erickson, Team Member, RIV  
Terry O'Clair, ND  
Chris Schmaltz

- 1. Convention.** Mr. Aaron McCraw convened the meeting at 3:10 p.m. He noted that this Management Review Board (MRB) meeting was open to the public; however, no members of the public attended this meeting. He then transferred the lead to Mr. Martin Virgilio, Chair of the MRB. Introductions of the attendees were conducted.
- 2. North Dakota IMPEP Review.** Ms. Kathleen Schneider, team leader, led the presentation of the North Dakota Integrated Materials Performance Evaluation Program (IMPEP) review results to the MRB. She summarized the review and noted the findings. The on-site review was conducted by an interoffice team during the period of April 17-19, 2007. She noted that a draft report was issued to the State for factual comment on May 15, 2007. The State responded on May 31, 2007, by e-mail from Kenneth W. Wangler, Manager, Radiation and Indoor Air Branch. Submitted with the State's response was a proposal for the MRB's consideration that Ms. Schneider explained would be discussed at the appropriate point during the presentation.

**Common Performance Indicators.** Ms. Barbara Taylor 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 North Dakota's performance with respect to this indicator to be "satisfactory" and made no recommendations. Ms. Schneider interjected that since the review team was on-site the Branch Manager had left the program. The MRB inquired about the Branch's current staffing situation. Mr. Terry O'Clair explained that the Branch Manager has oversight of programs other than the radioactive materials program. In the interim, Mr. O'Clair will be providing management oversight. The State has a list of candidates and a selection should be made by mid-July. Mr. O'Clair explained that the two inspectors are working closely to get the junior inspector fully-qualified to independently perform certain regulatory actions. Mr. Samuel Collins inquired about State employee salaries. Ms. Schneider explained that the salaries of the inspectors is

equivalent to other positions throughout the Department. Mr. Gary Robertson expressed that he was impressed by the Branch's ability to rapidly train the junior inspector all the while maintaining other aspects of the program. Ms. Taylor added that the State is very committed to training. The MRB agreed that North Dakota'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 initially recommended that North Dakota's performance with respect to this indicator should be found "unsatisfactory," based on the percentage of inspections that were performed overdue. Ms. Schneider explained that the review team was making the hard call, because there had been insufficient time for the State to have demonstrated a period of sustained performance at a higher level. In light of the State catching up on all overdue inspections, the review team was willing to change its recommendation to "satisfactory, but needs improvement;" however, the review team did not support a finding of "satisfactory" as the State had requested in its response to the draft report. The MRB debated which finding was most appropriate for this indicator. Ms. Karen Cyr noted that because North Dakota is a small program it is easy to get in trouble quickly; however, the State was able to recover quickly. Mr. Collins stated that the issue is more with staffing than with the inspection program. Ms. Schneider explained that, historically, IMPEP was designed to prevent "double dinging" of a program. Mr. Robertson shared that he played with the numbers and found that if North Dakota had completed one more inspection on time they would have met the criteria for the middle indicator finding. Mr. Virgilio recommended that additional text be added to the cover letter to bring the staffing issue to light, because overall the State's performance with respect to staffing and training was indeed worthy of a "satisfactory" finding. The MRB agreed to bring the staffing issues to light in the cover letter transmitting the final IMPEP report. The MRB concluded that a finding of "satisfactory, but needs improvement" was most appropriate 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 North Dakota's performance with respect to this indicator to be "satisfactory" and made no recommendations. Mr. Erickson did note that no inspector accompaniments were performed in 2006; however, the inspector accompaniments were up-to-date at the time of the review. The MRB agreed that North Dakota's performance met the standard for a "satisfactory" rating for this indicator.

Ms. Taylor presented the findings regarding the common performance indicator, Technical Quality of Licensing Actions. Her presentation corresponded to Section 3.4 of the proposed final IMPEP report. The review team found North Dakota's performance with respect to this indicator to be "satisfactory" and made no recommendations. The MRB agreed that North Dakota's performance met the standard for a "satisfactory" rating for this indicator.

Ms. Schneider 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 North Dakota's performance with respect to this indicator to be "satisfactory" and made no recommendations. All MRB members commended the State for its performance with respect to response to incidents and allegations. The MRB agreed that North Dakota's performance met the standard for a "satisfactory" rating for this indicator.

**Non-Common Performance Indicators.** Ms. Schneider also 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 North Dakota's performance to be "satisfactory" and made no recommendations. Ms. Schneider noted that the State had no overdue regulations at the time of the review; however, the transportation amendment would become overdue in October because the State's time line currently anticipates adoption in the December time frame. Mr. O'Clair indicated that the State is exploring the option of adoption by reference to Federal regulations in order to expedite the rulemaking process. The MRB agreed that North Dakota'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 North Dakota program was rated "satisfactory, but needs improvement," for the indicator, Status of Materials Inspection Program, and "satisfactory" for all remaining performance indicators reviewed. The review team made no recommendations regarding the performance of the North Dakota Agreement State Program. Accordingly, the review team recommended, and the MRB agreed, that the North Dakota Agreement State Program was adequate to protect public health and safety and compatible with NRC's program and that the next full IMPEP review take place in approximately 4 years. The review team recommended, and the MRB agreed, that a periodic meeting with North Dakota should take place in 1 year to ensure that the State is staying current on its inspections and to evaluate the transition to a new Branch Manager.

**Comments.** Mr. O'Clair thanked the MRB for recognizing the positive actions taken by the State. He also stated that his managers were impressed by the IMPEP process. Mr. Robertson commented that he was pleased with the results of the MRB for North Dakota's benefit. He was very understanding of North Dakota's situation and explained to the MRB that it helps to have the NRC talk directly to the senior State managers as part of the process. Ms. Taylor commented that she enjoyed the opportunity to review a small program and see the differences between it and a larger program. She said it was an eye-opening experience to see the delicacy of a small program. Mr. Virgilio thanked the team for their presentation and hard work.

3. **Precedents/Lessons Learned.** No precedents that will be applied to the IMPEP process in the future were established by the MRB during this review.
4. **Good Practices.** No good practices were identified during this review.
5. **Adjournment.** The meeting was adjourned at approximately 4:15 p.m.