

July 11, 2007

MEMORANDUM TO: Martin J. Virgilio  
Deputy Executive Director for Materials, Research,  
State 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

Bruce S. Mallett, Regional Administrator, Region IV

FROM: Kim Karcagi, General Scientist /RA/  
Office of Federal and State Materials  
and Environmental Management Programs

SUBJECT: JULY 19, 2007 SPECIAL MRB MEETING

A Special Management Review Board (MRB) meeting to discuss the results of an orientation and periodic meetings with Agreement States has been scheduled for **Thursday, July 19, 2007, from 1:00 p.m. to 3:00 p.m. EST, in Two White Flint North, Room T-8-C5**. The orientation meeting summary report of Minnesota and the periodic meeting summary reports of Arizona and Mississippi will be discussed. The meeting summary reports for each State are enclosed.

In accordance with Management Directive 5.6, the meeting is open to the public. The agenda for this meeting is enclosed.

If you have any questions or need additional information, please feel free to contact me at (301) 415-6701.

Enclosures:  
As stated

cc: Pearce O'Kelley, SC  
Organization of Agreement States  
Liaison to the MRB

Management Review Board Members

July 11, 2007

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OFFICE	FSME:DMSSA		FSME:DMSSA						
NAME	KKarcagi:kk		AMcCraw						
DATE	7/11/07		7/11/07						

**OFFICIAL RECORD COPY**

November 21, 2006

John Linc Stine, Director  
Environmental Health Division  
Minnesota Department of Health  
625 Robert St. N.  
P.O. Box 64975  
St. Paul, MN 55164-0975

Dear Mr. Stine:

An orientation meeting with Minnesota was held on November 14, 2006. The purpose of this meeting was to review and discuss the implementation of Minnesota's Agreement State program. The U.S. Nuclear Regulatory Commission was represented by Aaron McCraw from the NRC's Office of Federal and State Materials and Environmental Programs, and me.

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions.

If you believe that the comments, conclusions, or actions to be taken do not accurately summarize the meeting discussion, or you have any additional remarks about the meeting in general, please contact me at (630) 829-9661, or e-mail to JLL2@NRC.GOV to discuss your comments.

Sincerely,

*/RA/*

James L. Lynch  
State Agreements Officer

Enclosure:  
As stated

cc: Linda Bruemmer, MN  
George Johns, MN

## ORIENTATION MEETING SUMMARY FOR MINNESOTA

DATE OF MEETING: NOVEMBER 14, 2006

### ATTENDEES:

#### NRC

Jim Lynch  
Aaron McCraw

#### STATE

John Stine  
Linda Bruemmer  
George Johns  
Sherrie Flaherty  
Craig Verke  
Brandon Juran  
Susan McClanahan  
Tim Donakowski

### DISCUSSION:

#### Agreement

Minnesota became the 34<sup>th</sup> Agreement State on March 31, 2006. The Agreement discontinued NRC regulatory authority in the State for: a) Byproduct materials as defined in Section 11e.(1) of the Atomic Energy Act; b) Source materials; and c) Special nuclear materials in quantities not sufficient to form a critical mass. The Agreement does not cover land disposal of radioactive material, uranium recovery processes, or sealed source and device evaluation.

#### Organization

The Agreement State Program is administered by the Radioactive Materials Unit, Indoor Environments and Radiation Section, Division of Environmental Health, Department of Health. George Johns is the supervisor of the Radioactive Materials Unit. The Section manager position is currently vacant, with the recent promotion of Linda Bruemmer to Assistant Division Director. Interviews for the position are ongoing, with a decision expected shortly. Minnesota regulates approximately 196 specific licenses, including naturally occurring or accelerator-produced radioactive material (NARM). A recent reorganization separated the x-ray program into its own Unit, allowing the Radioactive Materials Unit Supervisor to focus on the radioactive materials program. Management support for the Program appears excellent.

#### Radiation Control Program Staffing

The Program is fully staffed, with no vacancies or significant turnover since the Agreement signing. Four staff members perform inspections and licensing reviews. All are cross-trained in both inspection and licensing to provide maximum flexibility and backup. Another experienced staff member provides technical support to the program. A full-time administrative staff person also supports the Radioactive Materials Unit.

#### Training

Enclosure

Formalized training requirements have been developed for inspectors and license reviewers. The Radioactive Materials Unit Supervisor trains and accompanies each inspector before certifying them to conduct independent inspections. All staff members have completed all of the core training courses with the exception of the Root Cause course. Additionally, three staff members, as well as the Supervisor, have attended the NRC Security Systems and Principles Training Course for Materials Inspectors. Inspectors are accompanied at least annually by the Radioactive Materials Unit Supervisor.

The Program initiated an excellent outreach program for licensee physicists. Approximately semiannually, general information meetings are held with medical physicists and health physicists. Good attendance and participation was noted.

### Inspections

At the time of Agreement, Region III provided an approximate three-month "cushion" of completed inspections to allow Minnesota to concentrate on structuring its program without concern about overdue inspections. Only one inspection was completed overdue since the Agreement, a result of a program code error. Since the signing of the Agreement, the Program has completed 22 routine inspections, as well as 8 reciprocity inspections of 23 candidate licensees that have entered the State.

The Program has enforcement authority and has issued administrative penalty orders, with associated fines, to two licensees.

The State has also made considerable progress in completing actions associated with the implementation of increased controls. The Program is currently on pace to complete all 24 of the inspections required in the first three years of implementation, by Spring 2007.

The State has a considerable array of radiation detection instrumentation. The Program is capable of detecting alpha, beta, gamma, and neutron radiation. The Program is very proactive at securing detection equipment for HAZMAT teams and commercial vehicle inspection units and training the individuals on the principles of radiation and the proper use of the detection equipment.

### Licensing

No significant licensing backlog exists. A considerable number of licensing actions have been completed since the Agreement was signed. All licenses have been converted to Minnesota format and the State has taken commendable efforts to make all Minnesota licenses consistent and easy to use for the license reviewers, inspectors, and licensees. Licenses are peer reviewed and then signed by the Unit Supervisor and the Section Manager.

A total of 7 Minnesota licenses had active financial surety instruments at the time of the Agreement. Since then, 4 instruments were converted to change the beneficiary from NRC to Minnesota. Of the remaining licensees, only one has been unresponsive to the Program's requests for action. The Program is considering alternative actions including separating the license into quantities that do not require financial assurance individually.

### Regulations

At the time of the meeting, the State's regulations were up-to-date and fully compatible. The status of NRC amendments that will need to be addressed in the future was discussed. One

NRC amendment coming due in the very near future, "Financial Assurance for Materials Licensees - Parts 30, 40, and 70," has not been addressed by Minnesota according to the State Regulation Status Sheet maintained by the NRC.

Program staff indicated that they currently have one rulemaking package in process. The package will cover amendments to transportation, medical specialty boards, portable gauge security, and financial surety regulations. The affected regulations are currently covered by license conditions, when needed, while the package goes through the rulemaking process. The Minnesota regulation process typically takes 9 months to a year to complete.

#### Self Assessments

Program managers were encouraged to perform self-assessments of their Agreement State program, prior to the IMPEP review, using the procedures maintained by NRC's Office of Federal and State Materials and Environmental Programs.

#### Incidents

Minnesota staff responded to four reportable incidents since the Agreement signing. All of the incidents were responded to appropriately, with an on-site inspection performed when needed. Close coordination was maintained with the NRC.

Inspectors input incident information directly into the Nuclear Material Events Database (NMED) as incidents occur. A review of NMED identified timely and quality input of incidents.

#### Allegations

One allegation was transferred to Minnesota from NRC since the Agreement. The allegation involved unapproved use of industrial radiography sources. Minnesota staff investigated the allegation and took prompt, appropriate action. Investigation results were provided to the Regional State Agreements Officer.

#### Sealed Sources and Devices

The Minnesota Agreement does not include Sealed Source and Device (SS&D) authority. Amendment of the Agreement to include an SS&D program may be considered if licensees begin source or device manufacturing, but is not foreseen in the near future.

#### CONCLUSIONS:

The Minnesota Radiation Control Program appears to be a capable, stable Agreement State program. Staffing has remained consistent since the Agreement and the training level for staff members is good.

Management support for the program is excellent.

The initial IMPEP review of the Minnesota Radiation Control Program is tentatively scheduled for November 2007.



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-4005

March 21, 2007

Mr. Aubrey V. Godwin, Director  
Arizona Radiation Regulatory Agency  
4814 South 40<sup>th</sup> Street  
Phoenix, AZ 85040

Dear Mr. Godwin:

A periodic meeting with Arizona was held on March 1, 2007. The purpose of this meeting was to review and discuss the status of Arizona's Agreement State Program. The NRC was represented by me and Randy Erickson from NRC's Region IV office.

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions.

If you feel that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (817) 860-8116 or e-mail [MLM1@NRC.GOV](mailto:MLM1@NRC.GOV) to discuss your concerns.

Sincerely,

**/RA/**

Linda McLean  
Regional State Agreements Officer

Enclosure:  
As stated

cc w/encl  
Janet Schlueter, Director

## PERIODIC MEETING SUMMARY FOR ARIZONA

DATE OF MEETING: March 1, 2007

### ATTENDEES:

State	NRC
Aubrey Godwin, Director William Wright, Program Manager	Linda McLean, Regional State Agreements Officer Randy Erickson, Regional State Agreements Officer

### DISCUSSION:

The Arizona Radiation Regulatory Agency (Agency) is a cabinet-level agency. The Director is appointed by the Governor. The Agency is responsible for the conduct of a statewide radiological health and safety program, and consists of five program areas: Radioactive Materials/Non-Ionizing Radiation (RAM), X-ray Compliance (X-ray), Radiation Measurements Laboratory (Lab), Emergency Response, and The Medical Radiologic Technology Board of Examiners. The Agency has approximately 380 material licensees.

The last Integrated Materials Performance Evaluation Program (IMPEP) Review was conducted during the week of February 6-10, 2006. the review team found Arizona's performance to be unsatisfactory for the performance indicator, Status of Materials Inspection Program; satisfactory but needs improvement for the performance indicator, Technical Staffing and Training; and satisfactory for the five remaining performance indicators. Accordingly, the review team recommended and the MRB agreed in finding the Arizona Agreement State Program to be adequate, but needs improvement, and compatible with NRC's program.

Because of the finding of unsatisfactory for the performance indicator, Status of Materials Inspection Program, the MRB expressed concern that without adequate staffing levels and proper knowledge transfer the Agency will continue to get further behind in inspections and, over time, the quality of inspections will decline. The MRB stated that adequate funding and support is essential to maintenance of a healthy program, which can ensure that staffing levels are appropriate to guarantee inspections of radioactive material licensees are completed in a timely manner and that the existing backlog be diminished. Adequate funding will also ensure that new staff will be trained and qualified in a reasonable time frame and that high quality staff will be attracted and retained.

Status of State's actions to address all open previous IMPEP review findings and/or open recommendations.

1. The review team recommends that the Agency develop and implement a staffing plan to fill the current vacancy, meet growing Program needs and maintain long-term stability.

**Current Status:** Four positions (two x-ray, one materials, one laboratory) have been filled since the last review, and the positions are funded. Four additional positions have been requested for the FY 2008 - 2009 budget (two x-ray, two materials). The Program Manager (William Wright) is retiring at the end of June 2007, and another senior staff will retire at the end of 2007. The Agency is facing considerable staffing issues, both



present and future. The Agency is experiencing difficulty in qualifying and retaining staff. The Agency's low starting salaries have made it difficult to recruit and retain individuals with radiation protection experience.

2. The review team recommends that the Agency take appropriate measures to conduct core inspections (including initial inspections) in accordance with the inspection priority schedule in MC 2800, and conduct reciprocity inspections in accordance with MC 1220.

**Current Status:** The 2006 IMPEP team found that there were a significant number of overdue core inspections and core inspections completed overdue. Also, inspection of reciprocity licensees were not being conducted as required. Since that review, the Agency has made an effort to prioritize inspections based on their inspection frequency. The plan is to first inspect broad medical, industrial radiography, nuclear pharmacy, distribution licensees, and initial inspections, and to complete the 13 increased controls inspections. The Agency has been successful in completing these types of licenses, and also all of the increased controls inspections have been completed. However, approximately 187 priority 2-3 license inspections are overdue.

The Agency has initiated actions to seek programming assistance from the Arizona Government Information Technology Agency to enable them to improve the program database. One of the main purposes for this measure is to be able to track and conduct core inspections (including initial inspection) in accordance with the inspection priority schedule in MC 2800, and to perform reciprocity inspections in accordance with MC 1220. The new database may be completed by June 2007.

3. The review team recommends that the Agency review all Arizona licenses to ascertain if they require financial assurance, and take appropriate action on each affected license to ensure that all licenses meet the State's financial assurance requirements.

**Current Status:** The Agency determined that 20 licensees require financial assurance (14 have been completed). The remainder of the licenses will include financial assurance commitments by the end of 2007.

4. The review team recommends that the Agency develop a process that allows for the adoption of NRC regulations within the three-year time frame.

**Current Status:** The State Regulation Status (SRS) data sheet was reviewed. It was noted that several proposed regulations have been reviewed by the NRC, but the final rules have not been submitted to the NRC for review. Additionally, several final rules reviewed by the NRC had comments to be incorporated into the final promulgated regulation. It was requested that the Agency submit the proposed and final regulations to the NRC using FSME Procedure SA-201 as a guide.

The Agency is having some difficulty keeping up with the NRC regulation changes. For each regulation, the Agency must describe the effectiveness of the regulation and provide the statutory authority under which the regulation is issued. The Agency must also demonstrate that the regulation is consistent with other Agency regulations, and that the regulation is clear and understandable.

5. The review team recommends that the Agency develop and implement a process to ensure that during routine inspections the QA/QC requirements in the SS&D registry sheets are being implemented by the manufacturer.

**Current Status:** The Agency has added the QA/QC requirements in the SS&D registry sheets to the inspection form. This should ensure that during routine inspections the QA/QC requirements are reviewed for compliance.

Strengths and/or weaknesses of the State program as identified by the State or NRC including identification of actions that could diminish weaknesses.

- a. **Program Strengths:** During this review period there has been no turn-over of staff, and the program hired four additional staff members.
- b. **Program Weaknesses:** The Agency is experiencing difficulty in qualifying and retaining staff. The Agency's low starting salaries have made it difficult to recruit and retain individuals with radiation protection experience.

Feedback on NRC's program as identified by the State and including identification of any action that should be considered by NRC:

It was suggested that the NRC revise the SRS data sheet to make it more useful for the regulation writer. For example, the sheet should include an internet link to the new or changed regulation and to the Statements of Consideration.

The Agency stated that they support the use of global positioning systems for increased controls licensees (radiographers and portable gauges).

Status of State Program including: Topics were discussed in the first section of this report.

Event Reporting, including follow-up and closure information in NMED:

All events required to be reported into the NMED database have been submitted, and the records have been closed and completed when applicable.

Response to Incidents and Allegations:

No allegations were referred to the Agency during this review period.

Schedule for the next IMPEP review:

This will be determined during the special Management Review Board (MRB) meeting.



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-4005

April 24, 2007

Robert W. Goff, Director  
Mississippi Division of Radiological Health  
State Department of Health  
3150 Lawson Street  
PO Box 1700  
Jackson, MS 39215-1700

Dear Mr. Goff:

A periodic meeting with Mississippi was held on April 3, 2007. The purpose of this meeting was to review and discuss the status of Mississippi's Agreement State Program. The NRC was represented by me, Leonard Wert, and Randy Erickson from NRC's Region IV office, and Shawn Smith from the Office of Federal and State Materials and Environmental Management Programs (FSME).

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions.

If you feel that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (817) 860-8116 or e-mail [MLM1@NRC.GOV](mailto:MLM1@NRC.GOV) to discuss your concerns.

Sincerely,

*/RA/*

Linda McLean  
Regional State Agreements Officer  
Region IV

ENCLOSURE:

cc w/enclosure:  
Janet Schlueter. Director

ENCLOSURE  
Mississippi Periodic Meeting Summary  
April 3, 2007

ATTENDEES

State	NRC
Robert Goff, Director, Division of Radiological Health B. J. Smith, Director, Radioactive Materials Branch	Linda McLean, Regional State Agreements Officer (RSAO), RIV Leonard Wert, Director, Division of Nuclear Materials Safety, RIV Randy Erickson, RSAO, RIV Shawn Smith, Agreement State Project Officer, Office of Federal and State Materials and Environmental Management Programs, (FSME)

DISCUSSION:

The Mississippi Agreement State program is administered by the Division of Radiological Health (the Division) with the day-to-day operations and is managed by the Radioactive Materials Branch (the Branch). The Division also contains the X-Ray Branch and the Environmental, Emergency Response, Radioactive Waste, and Transportation Branch. The Division is part of the Office of Health Protection under the Mississippi Department of Health.

Status of State's actions to address all open previous IMPEP review findings and/or open recommendations:

Recommendation 1: The review team recommended that the State take additional actions, such as increasing salary and benefits, to stabilize staffing and ensure continued successful program implementation.

Current Status: The Division had one salary increase since the last review; however, however, the salaries have remained comparatively low to those in other neighboring States. Currently, the Division has one vacancy. The Division was unable to find a qualified applicant for the posted senior level position at the salary offered. The position was re-posted, but at a lower grade level. A second vacancy was filled from within the Department. The individual will begin training soon. Other vacancies exist within the Division (the X-ray Branch and the Environmental Branch have two and one vacancies respectively). With the exception of two supervisors and one senior health physicist, the health physicist staff has an average of 3.5 years experience.

The Division conducted a salary survey within the Department of Health and found that the senior health physicist position is lower than many others positions within the Department (e.g., food inspector). In addition, the Division conducted a salary survey of surrounding States and found that the salaries in Mississippi are below the average of the other States' radiation programs. With this information, the Division Director issued a memo to the Department on April 2, 2007, requesting a realignment of health physicists' salaries. The Director stated that a letter of support from the NRC may be helpful.

ENCLOSURE

Recommendation 2: The review team recommended that the State ensure that individuals who make allegations are informed of the resolution of their concerns.

Current Status: The Division's allegation procedure was changed to ensure that individuals who make allegations are informed of the resolution of their concerns.

Recommendation 3 (for the NRC): The review team recommended that the NRC provide guidance to IMPEP teams as to how to document review findings for those States which have not adopted the general license (GL) rule.

Current Status: Determinations on Agreement State GL rules will be factored into the assessment of the compatibility findings during IMPEP reviews by either of the following: (i) if the rule is less restrictive, the State will be asked to address the areas that are less restrictive; or (ii) if the rule is more restrictive, the determination on compatibility will be held in abeyance until decisions on current GL-related petitions and requests are made. This information has been provided to States, via All Agreement States letter STP-06-076, and to IMPEP teams.

#### OTHER DISCUSSION TOPICS

Strengths and/or weaknesses of the State program as identified by the State or NRC including identification of actions that could diminish weaknesses:

Weaknesses: The Division has had a large staff turnover for many years. The high staff turnover was identified and discussed during the 2005 and the 2001 IMPEP Reviews. The Division Director indicated that the State has had one pay increase since the last IMPEP Review; however, the salaries have remained comparatively low to those in other neighboring States. The challenges the Division is facing in retaining and training the current staff are significant especially with the retirement of the Division Director in April. The Director stated that increased salaries is needed to help stabilize staffing.

Strengths: The program is small; consequently, there is good communications between the staff. The staff does both licensing and inspections. All licensing actions receive peer review from other staff members before being reviewed by the Branch Director.

Feedback on NRC's program as identified by the State and including identification of any action that should be considered by NRC: The Division requested that the "Diagnostic and Therapeutic Nuclear Medicine Course (H-304)" and the "Brachytherapy, Gamma Knife and Emerging Technologies Course (H-313)" be offered more frequently.

Materials Inspection Program: The Division has no inspection backlog; however, this has been accomplished by the Branch Director conducting inspections to keep up, and the Division Director managing the regulation amendment updates.

Regulations and Legislative changes:

The Division will need to address the following regulation in upcoming rulemakings or by adopting alternate legally binding requirements:

ENCLOSURE

- “Financial Assurance for Materials Licensees,” was due December 3, 2006.

The following final regulation has been submitted to the NRC by letter dated March 22, 2007.

- “Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material,” 10 CFR Parts 30, 31, 32 amendments (65 FR 79162) that became effective February 16, 2001.

Mississippi has had a general license registration program in effect since 1963. The rule contains the basic provisions of the NRC regulation, but is more restrictive and includes periodic inspections of general licenses. The Division Director indicated that Mississippi does not wish to adopt a less protective general license rule in order to meet the NRC regulation compatibility designation.

Program reorganizations: The Division Director is retiring at the end of April.

Changes in Program budget/funding: The Division had a fee increase (50%) for fiscal year 2007. The Division is partially fee supported (40%).

Event Reporting, including follow-up and closure information in NMED: All NMED reports were closed and complete.

Response to Incidents: The most event during this review period was Hurricane Katrina. The Division performed outstandingly during this event. All radioactive material sources were recovered. (The Division’s general license program was an asset in accomplishing the total recovery.)

Response to Allegations: No allegations were referred to the Division for action during this review period.

Schedule for the next IMPEP review: FY2009

ENCLOSURE

**Agenda for Management Review Board Meeting**  
**July 19, 2007, 1:00 p.m. - 3:00 p.m., T-8-C5**

1. Announcement of Public Meeting to all attendees and request for identification of any members of the public participating in this meeting.
2. MRB Chair convenes meeting. Introduction of MRB members, Agreement State representatives, and other participants. (OAS Liaison is Pearce O'Kelley of South Carolina)
3. Discussion of Orientation and Periodic Meetings:
  - a. Minnesota (November 14, 2006) - ML063260258 - Lynch/McCraw
  - b. Arizona (March 1, 2007) - ML070811130 - McLean
  - c. Mississippi (April 3, 2007) - ML071140341 - McLean/Smith
4. Establishment of Precedents/Lessons Learned
5. Adjournment

Invitees: Martin Virgilio, EDO  
Charles Miller, FSME  
Karen Cyr, OGC  
Bruce Mallett, RIV  
Pearce O'Kelley, SC  
Duncan White, FSME  
James Lynch, RGN III  
Linda McLean, RGN IV  
Shawn Smith, FSME

Tom Hogan, MN  
George Johns, MN  
Aubrey Godwin, AZ  
BJ Smith, MS  
Aaron McCraw, FSME  
Kim Karcagi, FSME  
Michael Kunowski, OEDO  
Scott Moore, FSME