

October 30, 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

Marc L. Dapas, Deputy Regional Administrator
Region I

FROM: Kim K. Lukes, General Scientist */RA/*
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: NOVEMBER 8, 2007 SPECIAL MRB MEETING

A Special Management Review Board (MRB) meeting to discuss the results of a periodic meeting with one Agreement State has been re-scheduled for **Thursday, November 8, 2007, from 12:00 p.m. to 1:00 p.m. EST, in One White Flint North, Room O-3-B6**. The periodic meeting summary report of Arkansas will be discussed. The meeting summary for this State is enclosed (Enclosure 1).

In accordance with Management Directive 5.6, the meeting is open to the public. The agenda for this meeting is enclosed (Enclosure 2).

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

Enclosures:
As stated

cc: Barbara Hamrick, CA
Organization of Agreement States
Liaison to the MRB

Management Review Board Members

October 30, 2007

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

September 20, 2007

Paul Halverson, DrPH, MHSA,
Director of Health and State Public Health Officer
Arkansas Department of Health
4815 West Markham, Slot 39
Little Rock, Arkansas 72205

Dear Dr. Halverson:

A periodic meeting with your State was held on August 28, 2007. The purpose of this meeting was to review and discuss the status of the Arkansas Agreement State Program. The NRC was represented by Mr. Leonard Wert and Ms. Linda McLean from NRC's Region IV office, Mr. William Rautzen from NRC's Office of Federal and State Materials and Environmental Management Programs, and myself. Topics and issues of importance discussed at the meeting included a detailed discussion of recommendations from the 2006 IMPEP review, staffing issues facing the Program, and discussion of a long standing licensing renewal backlog.

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) 860-8143 or e-mail RRE@nrc.gov to discuss your concerns.

Sincerely,
/RA/
Randy Erickson

Enclosure:
Periodic Meeting Summary for Arkansas

cc w/enclosure:

Janet Schlueter, Director
Office of Federal and State Materials and
Environmental Management Programs

Mr. Bernard Bevill, Section Chief
Arkansas Department of Health
Radiation Control Section
4815 West Markham, Slot 30
Little Rock, Arkansas 72205

Mr. Jared Thompson, Program Leader
Arkansas Department of Health
Radioactive Materials Program
4815 West Markham, Slot 30
Little Rock, Arkansas 72205

ENCLOSURE 1

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR ARKANSAS

DATE OF MEETING: AUGUST 28, 2007

ATTENDEES:

NRC

Randy Erickson
Regional State Agreements Officer
Linda McLean
Regional State Agreements Officer
Leonard Wert, Director
Division of Nuclear Materials Safety
William Rautzen
Office of Federal and State Materials
and Environmental Management
Programs

STATE

Paul Halverson, DrPH, MHSA
Director of Health and State Public Health Officer
Charles McGrew, MPH, Deputy Director
and Chief Operating Officer
Renee Mallory, RN, Branch Chief
Health System Licensing and Regulation Branch
Bernard Bevill, Section Chief
Radiation Control Section
Jared Thompson, Program Manager
Radiation Control Program
Steve Mack, Program Coordinator
Radiation Control Program
Katia Gray, Health Physicist
Layne Pemberton, Health Physicist
Nicole Sanders, Health Physicist
David Snellings, Consultant

DISCUSSION:

At the time of the 2006 Integrated Materials Performance Evaluation Program (IMPEP) review, the Arkansas Agreement State Program (the Program), a part of the Arkansas Division of Health, was a part of the Arkansas Department of Health and Human Services (ADHHS). On July 1, 2007, at the direction of the Governor, ADHHS was reorganized and the Arkansas Department of Health (ADH) was created. The Program is now a part of ADH which is headed by Paul Halverson, DrPH. The Program remains part of the Health System Licensing and Regulation Branch, which is part of the Center for Health Protection (the Center). The Center Director answers directly to the Director of Health.

The previous IMPEP review was conducted the week of August 28 - September 1, 2006. At the conclusion of the review, the team recommended that Arkansas' performance be found satisfactory, but needs improvement, for the indicators, Technical Staffing and Training and Technical Quality of Licensing Actions, and satisfactory for all remaining performance indicators reviewed. The review team made four recommendations regarding the performance of the Program and left one recommendation from the 2002 IMPEP review open. The review team also recommended, and on November 15, 2006, the Management Review Board (MRB) agreed, that the Arkansas Agreement State Program was adequate to protect public health and safety and compatible with NRC's program.

Because of the long standing license renewal backlog, and the negative affect of a high staff turnover on the Program's performance, the MRB agreed that the periodic meeting should be

moved to one year so the NRC could reevaluate the Program's progress. The MRB also agreed that the next full IMPEP review take place in approximately four years.

The proposed status for each of the recommendations in Section 5.0 of the 2006 Arkansas final IMPEP report are summarized below.

- The review team recommends that Department management develop and implement an action plan to reduce the licensing renewal backlog.

Current Status: The licensing renewal backlog has been an ongoing problem for the Program that had been identified during reviews conducted in 1995, 1998, 2002, and again during the 2006 review. At that time the reviewer noted that 92 of 245 active licenses or 38 percent were under timely renewal, and that 84 of the 92 licenses under timely renewal or 91 percent had been under timely renewal for greater than one year. The reviewer also noted that 55 of the 92 licenses under timely renewal or 60 percent were also under timely renewal during the 2002 review. Following the 2002 review, the Program found some success in reducing the backlog until January 2005 when the Program lost three staff members, causing their progress to be lost. The Program has not improved in this area since the 2006 review. Other than attempting to hire and train new staff, and allowing time to work out the licensing backlog, the Program acknowledged they do not have an action plan to reduce the licensing backlog.

While the licensing backlog was identified as a continuing problem for the Program, it appears to be a symptom of the Program's inability to retain qualified staff. The Program has been successful in hiring new staff, but has also experienced several staff departures. In 2005, the Program lost three qualified staff members, and again between 2006 and 2007, the Program lost two additional staff members. Concerned about this trend, management interviewed staff and identified what they believe to be root causes for staff departures. These include low salaries coupled with the inability for upward mobility within the Program. Program management stated that both issues had been previously conveyed to Department managers. This information was also provided directly to the Director of Health during the exit meeting, where he committed to initiating actions to address these areas. This recommendation remains open and should be evaluated at the next IMPEP review.

- The review team recommends that the State evaluate current and future staffing needs and business processes to develop and implement a strategy that improves the effectiveness and efficiency of the Program to ensure its continued adequacy and compatibility.

Current Status: The Program evaluated staffing levels and determined that when fully staffed and fully trained, the Program has the appropriate level of staff to fulfill their mission. The Program currently has filled all but one of their vacancies. Due to the high number of recent staff departures, the Program interviewed exiting employees and found that these employees left because of low salaries and a lack of upward mobility within the Program, a message the Program conveyed to Department managers. In a letter to NRC dated February 14, 2007, the Director of Health acknowledged the problem and stated that the Department will be re-evaluating position classifications and

salary structure in Summer 2007. While the Department has evaluated future staffing needs, at the time of the review they had not yet developed a specific strategy to address the reasons why employees are leaving the Program. As mentioned above, the Director of Health committed to initiating actions to address these problems. This recommendation remains open and should be evaluated at the next IMPEP review.

- The review team recommends that the State develop and implement a documented training plan consistent with the guidance in the NRC/Organization of Agreement States Training Working Group Report and the NRC's Inspection Manual Chapter (IMC) 1246.

Current Status: During the 2006 review, it was noted that the Program did not have a documented training plan consistent with NRC's training plan. Following the 2006 review, the Program developed and documented RAM 07.0, a training program similar to IMC 1246. The training plan was reviewed and approved by Department management on March 16, 2007. This recommendation should be verified and closed at the next IMPEP review.

- The review team recommends that the State develop and implement an inspection prioritization and inspection frequency protocol that can be consistently applied and at least meets the minimum requirements of IMC 2800.

Current Status: During the 2006 review it was noted that the Program had adopted an inspection schedule more aggressive than the frequencies identified in IMC 2800. After the 2006 review and in an effort to better allocate their available resources, the Program revised RAM 04.0, "Guidelines for Compliance Inspection Frequency of Arkansas Radioactive Materials Licenses" to align with the frequencies identified in IMC 2800. This recommendation should be verified and closed at the next IMPEP review.

- The review team recommends that the State develop and implement a license termination procedure to ensure consistent and acceptable quality of information requests and documentation.

Current Status: During the 2006 review, it was noted that the Program had developed and documented a license termination procedure, but staff had not fully followed the procedure, resulting in some terminated files containing appropriate documentation while other files were missing key information. In response, the Program revised RAM 01.6, "Radioactive Material or Particle Accelerator License Termination & Decommissioning," and provided copies to all staff members who were required to read and sign the document. The Program stated that this procedure will be closely followed in the future. This recommendation should be verified and closed at the next IMPEP review.

Other topics covered at the meeting included.

- Program Strengths: Program management has placed the proper emphasis on higher risk activities and is focusing on them in an effort to maintain health and safety. Program management has managed available staff well, ensuring that incident response and emergency response activities are not neglected. While the Program has

lost several staff members, they have seen some success in hiring new staff. The remaining staff has a broad knowledge base. Staff members work well together and provide a high level of customer service to their licensees. They work together to make team decisions concerning technical matters and have weekly team meetings. Despite limitations in staffing, the Program has been able to retain a consultant on a half-time basis to assist with the work load.

Program Weaknesses: The Program described what they believe to be weaknesses in their Program and many involve their problems with retaining qualified staff. Because of this problem, the average experience level of the staff has been reduced. The Program has two fully qualified staff members, but also has four staff members with less than two years of experience. Staff training continues to be a problem for the Program. Limited funding, competition for existing funds, and a difficult administrative process have all contributed to Program staff not being able to attend training. With the separation of ADH from ADHHS, Department management believes the process will improve.

The ability to perform on-the-job training is problematic because the Program only has one staff member responsible for staff training. Staff losses have caused an imbalance between licensing and inspection activities with only the most important and urgent licensing needs being addressed. In addition, all licensing actions have been delayed due to the lack of qualified staff to perform secondary reviews. In addition to licensing and inspection activities, the staff is also responsible for emergency response and decommissioning activities.

Program staff believed that their previous relationship with ADHHS was distant and detached from senior management, and that management was not familiar with their program or the work they performed. The staff is hopeful that their relationship with ADH management will not be the same. Additionally, the staff believes that there is a pronounced lack of communication between Department management and Program staff. Program staff believes that Department management is not supportive of their work or the significant challenges faced by the Program.

Licensing fees have not increased in 12 years. The Program staff believes this is directly related to low salaries and the inability to retain qualified staff. The Program further believes that the salary structure is not in line with job classification requirements and the required job functions. This results in difficulty in hiring experience staff above entry level salaries. Additionally, the lack of promotion potential due to the lack of a career ladder has caused qualified staff to leave the Program for better opportunities.

Staffing and training:

- The Program has a total of 8.5 staff positions when fully staffed, which includes the Program Manager, an Agency Program Coordinator, five Health Physicists, one Executive Secretary, and one half-time employee (consultant). Just prior to this periodic meeting, the Program had two vacancies, but one of the vacancies was recently filled. They are currently interviewing for the last position.

Of the five Health Physicists, one is away on military duty, and one is out on maternity leave. When the Program fills the last remaining open position, they will be fully staffed; however, they only have one staff member that is available to train the new hires, and he has other responsibilities within the Program. Most of the newer staff have received on-the-job training and have been able to attend a few NRC training courses. Retention of staff will continue to be a challenge for the Program.

Program reorganizations:

- The governing agency for the Program underwent a reorganization that became effective on July 1, 2007. The reorganization of the Department was described in the "Discussion" section of this summary.

Changes in Program budget/funding.

- There have been no budget or funding changes since the 2006 review.

Materials Inspection Program:

- During the 2006 review, it was noted that while the licensing program continued to experience a long-term license renewal backlog, the inspection program was able to remain current and up to date. It was noted during the Periodic Meeting that the licensing program made little progress in reducing the licensing renewal backlog. Despite revising RAM 04.0, "Guidelines for Compliance Inspection Frequency of Arkansas Radioactive Materials Licenses," to align with the frequencies identified in IMC 2800, it was noted that the Program has now developed a backlog of overdue inspections. The Program reported that over the previous 12-month period, they have a total of 42 overdue inspections, with 19 of them being Priority 1-3 inspections. Reciprocity inspections continue to be completed in a timely manner, and all Increased Controls inspections are up to date. The Program's review of incidents and allegations are timely and the proper emphasis is placed on them. The Program also has two ongoing, large decommissioning projects. While they expect that these projects may be completed by the end of the year, another large decommissioning project is scheduled to begin. These decommissioning projects also decrease the Program's effectiveness in reducing the backlog of inspections and licensing actions. The Program is also working on a General Licensing program that is currently inactive because of staffing issues.

Regulations and Legislative changes:

- Currently the Program is up to date on all regulation changes. In reviewing the State Regulation Status (SRS) sheet, it appeared that six final regulation packages had previously been reviewed by NRC and returned to the State with comments for resolution. The comments had not been resolved by the Program prior to making the regulations effective. The Program needs to forward comment resolution of these final regulation packages to NRC for review and approval.

1. "Timeliness in Decommissioning Material Facilities" 10 CFR Parts 30, 40 and 70 amendments (59 FR 36026) that the State made effective on January 1, 1997.
2. "Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use-Parts 30, 32, and 35" (59 FR 61767, 59 FR 65243, 60 FR 322) that the State made effective on January 1, 1997.
3. "Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19 and 20" (60 FR 36038) that the State made effective on July 1, 2002.
4. "10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71" (60 FR 50248, 61 FR 28724) that the State made effective on July 1, 2002.
5. "Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35 and 36" (63 FR 39477, 63 FR 45393) that the State made effective on July 1, 2002.
6. "Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20" (63 FR 50127) that the State made effective on July 1, 2002.

Event reporting, including follow-up and closure information in NMED.

- All NMED information is up to date.

Response to incidents and allegations.

- The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for their affect on public health and safety. Staff is dispatched to perform onsite investigations when necessary. The Program Manager has placed a high emphasis on maintaining an effective response to incidents and allegations.

Status of allegations and concerns referred by the NRC for action.

- No allegations were referred by NRC to the Program since the 2006 review.

Significant events and generic implications.

- Nothing to report.

Current State Initiatives.

- Nothing to report.

Emerging Technologies.

- Nothing to report.

Large, complicated, or unusual authorizations for use of radioactive materials.

- The Program has two large, ongoing decommissioning projects that they hope to have closed by the end of 2007. One additional decommissioning project is scheduled to begin at an unspecified date.

State's mechanisms to evaluate performance.

- The Program Manager conducts monthly self audits of their program to gauge their performance, and then compiles a report that is provided to the Section Chief for the Radiation Control Program. This report is shared with Department management as appropriate.
- The Program also has a master database that they use to track inspections and licensing activities.
- The Program Manager performs annual accompaniments of all the inspection staff to ensure they are performing at the expected level. Accompaniments are even more frequent for newer staff.

Current NRC initiatives:

- NRC staff discussed ongoing initiatives with the Program. These included the NARM Rule and its progress, the fingerprint orders and their progress, and the General Accounting Office's attempt to obtain an NRC license.

Additional NRC initiatives:

- Due to the difficulty of obtaining training and in an effort to determine the Program's effectiveness, in June 2007, NRC staff traveled to Arkansas and accompanied two junior inspectors on radioactive materials inspections. The accompaniments were to help them gain proficiency, as well as a different perspective on the inspection process. NRC staff accompanied Arkansas staff for 3 days in both office and field environments, and for both health and safety and increased controls inspections.
- Recently the Program hired a new staff member, who is currently dedicated to the licensing program. The Program is unable to send this individual to NRC's licensing course until 2008. To help the Program obtain the needed training, Region IV licensing staff hosted the new Arkansas license reviewer for a week of training in October 2007, designed to provide her with a broad spectrum of licensing activities.

Other topics discussed:

- Program staff requested a separate meeting with NRC staff to discuss issues they felt important. Staff openly discussed their frustrations with staffing, salaries, the inability for upward mobility within the Program and with the difficulties in obtaining training. Staff

also discussed frustration with Department management. These concerns were conveyed to Department management by NRC during the exit meeting.

Summary:

The Arkansas Program is a program struggling to overcome significant staff losses. The Program has had a difficult time hiring and retaining qualified staff, and has worked hard to maintain a strong and viable program. The Program has placed emphasis on issues directly affecting health and safety and has focused on them. The recent loss of several staff members has exacerbated the chronic problem of a long standing license renewal backlog. In addition, they are now beginning to experience a growing backlog in their inspection program. They have been able to hire new staff, but continue to struggle because there are few qualified staff members available to provide training. This has caused staff morale to suffer. The staff has requested direct and meaningful Department management involvement with the Program in an effort to rectify the issues facing them.

Schedule for the next IMPEP review.

- The date for the next periodic meeting, any increased oversight of the program, and/or the next IMPEP review will be determined by the MRB.

**Agenda for Management Review Board Meeting
November 8, 2007, 12:00 p.m. - 1:00 p.m. EST, O-3-B6**

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 Barbara Hamrick of California.)
3. Discussion of Periodic Meeting:
 - a. Arkansas (August 28, 2007) - ML072630612 - Erickson/Rautzen
4. Establishment of Precedents/Lessons Learned
5. Adjournment

Invitees:	Martin Virgilio, EDO	Kim Lukes, FSME
	Charles Miller, FSME	Aaron McCraw, FSME
	Karen Cyr, OGC	Randy Erickson, RGN IV
	Marc Dapas, RI	William Rautzen, FSME
	Barbara Hamrick, CA	Paul Halverson, AR
	Leonard Wert, RGN IV	Bernard Bevill, AR
	Duncan White, FSME	Jared Thompson, AR
	Janet Schlueter, FSME	Diana Diaz-Toro, OEDO
	Robert Lewis, FSME	Dennis Sollenberger, FSME

ENCLOSURE 2