

August 5, 2008

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

Joseph Gray, Associate General Counsel for
Licensing & Regulation
Office of the General Counsel

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

Samuel J. Collins, Administrator
Region I

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

SUBJECT: MINUTES: JULY 21, 2008, ARIZONA MANAGEMENT REVIEW
BOARD (MRB) MEETING

Enclosed are the minutes of the MRB meeting held on July 21, 2008. If you have comments or questions, please contact me at (301) 415-1277.

Enclosure: Minutes of the Management
Review Board Meeting

cc: Aubrey Godwin, Director
Arizona Radiation Regulatory Agency

Cheryl Rogers, Wisconsin
Organization of Agreement States
Liaison to the MRB

Management Review Board Members

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MINUTES: MANAGEMENT REVIEW BOARD MEETING OF JULY 21, 2008

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, OEDO
Charles Miller, MRB Member, FSME
Joseph Gray, Acting MRB Member, OGC
James Lynch, Team Leader, Region III
Linda McLean, Team Member, Region IV
Tomas Herrera, Team Member, FSME
Sherrie Flaherty, Team Member, MN
Robert Gallagher, Team Member, MA
Aubrey Godwin, AZ
Tracy Hannah, AZ

Aaron McCraw, FSME
Kim Lukes, FSME
Karen Meyer, FSME
Robert Lewis, FSME
James Luehman, FSME
Duncan White, FSME
Greg Morell, OEDO
R.K. Wild, OIG
Eric Rivera, OIG

By Videoconference:

Samuel Collins, MRB Member, Region I
Donna Janda, Region I

John Kinneman, Region I

By Teleconference:

Cheryl Rogers, OAS Liaison, WI

Chuck Cain, Region IV

1. **Convention.** Mr. Aaron McCraw convened the meeting at 2:00 p.m. He noted that this Management Review Board (MRB) meeting was open to the public; however, no members of the public participated in this meeting. He then transferred the lead to Mr. Martin Virgilio, Chair of the MRB. Introductions of the attendees were conducted.
2. **Arizona IMPEP Review.** Mr. James Lynch, team leader, led the presentation of the Arizona Integrated Materials Performance Evaluation Program (IMPEP) review results to the MRB. He summarized the review and noted the findings. The on-site review was conducted by a review team comprised of technical staff members from the U.S. Nuclear Regulatory Commission (NRC), the Commonwealth of Massachusetts, and the State of Minnesota during the period of March 10-14, 2008. A draft report was issued to the State for factual comment on April 10, 2008. Arizona responded by letter on May 14, 2008, from Dennis Burke, Chief of Staff, Office of the Governor. In the response to the draft report, the State offered information regarding corrective actions taken since the review to address the review team's findings.

Mr. Lynch provided a background on the review history of the Arizona Radiation Regulatory Agency (the Agency).

Common Performance Indicators. Mr. Lynch presented the findings regarding the common performance indicator, Technical Staffing and Training. His presentation corresponded to Section 3.1 of the proposed final IMPEP report. The review team found Arizona's performance with respect to this indicator to be "satisfactory, but needs

improvement” and made two recommendations. The review team recommends that the State develop and use qualification journals to track and monitor training for technical staff. The review team also recommended that the State ensure that license reviewers be provided appropriate medical training to ensure familiarity with medical license modalities. Mr. Joseph Gray inquired about the State’s issues with retaining staff. Mr. Lynch indicated that not just Arizona but many Agreement State programs face challenges with retaining staff when competing with universities and Federal agencies for a limited pool of individuals with radioactive materials experience. Mr. Lynch offered that the Agency would benefit from a dedicated fee fund. Mr. Aubrey Godwin explained that being a small agency hinders his ability to get the funds that he needs for his program from legislative appropriations. Ms. Tracy Hannah explained that the Arizona Legislature is attempting to close the gap on a two billion dollar deficit. Dr. Charles Miller inquired about succession planning for the experienced staff member that was expected to retire in December 2008. Mr. Godwin explained that the Agency cannot double encumber a position beyond 1 month, which limits the opportunities for knowledge transfer. He continued on that the Agency may be able to contract with former employees. Dr. Miller offered assistance with providing priority training for new staff members. Mr. Samuel Collins questioned the State’s ability to show improvement given the State’s current situation, as written in the proposed final report. Ms. Hannah countered that retention of staff is always an issue and the State will most likely never catch up on staffing. She indicated that the Agency needs to build a solid foundation. She also indicated that the Governor of Arizona made great efforts to ensure that the Agency’s budget remained flat despite budget cuts in other areas. Ms. Cheryl Rogers warned that, even with a dedicated fee fund, State legislatures can still get to the program’s funds. She recommended that the Agency add one or two staff members to minimize the impact to the Agency when a turnover occurs. Mr. Virgilio asked about travel restrictions. Mr. Godwin indicated that there are only out-of-State travel restrictions if the State is responsible for the funding. The MRB agreed that Arizona’s performance met the standard for a “satisfactory, but needs improvement” rating for this indicator.

Mr. Robert Gallagher 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. Mr. Gallagher explained that the review team found a number of medical licensees that were miscategorized in the Agency’s inspection database. He indicated that approximately 77 percent of inspections were conducted overview and 15 inspections were overdue at the time of the review. He also indicated that the Agency’s performance of reciprocity inspections declined during the review period. The review team recommended that Arizona’s performance with respect to this indicator be found “unsatisfactory.” A recommendation from the 2006 IMPEP review remained open. The review team recommended that the State take appropriate measures to conduct core inspections (including initial inspections) in accordance with the inspection priority schedule in IMC 2800, and conduct reciprocity inspections in accordance with IMC 1220. Mr. Gray inquired about the root cause of the miscategorized licenses. Mr. Gallagher indicated that inadequate training was the root cause. Mr. Godwin provided the MRB with a plan to address the overdue inspections. Ms. Hannah indicated that the plan would be completed by December 2008. Mr. Collins asked if the database had been corrected. Mr. Godwin stated that the miscategorizations were corrected in the database; however, his staff was going to check

the database again. Ms. Rogers asked if there is sufficient administrative support for the database. Mr. Godwin indicated that inspectors input data into the database. Mr. Virgilio asked if the State's corrective actions under this indicator will affect their performance under other indicators. Mr. Godwin assured the MRB that other performance indicators should not be affected. The MRB agreed that Arizona's performance met the standard for an "unsatisfactory" rating for this indicator.

Ms. Linda McLean presented the findings regarding the common performance indicator, Technical Quality of Inspections. Her presentation corresponded to Section 3.3 of the proposed final IMPEP report. The review team found Arizona's performance with respect to this indicator to be "satisfactory, but needs improvement" and made three recommendations. The review team recommended that the State conduct followup inspections of licensees with unresolved violations or issues with regard to the Increased Controls requirements to ensure that appropriate corrective actions were implemented. The review team also recommended that the State review its Increased Controls files to ensure that all sensitive security-related documents are labeled accordingly. Additionally, the review team recommended that an Agency manager accompany each inspector, at least annually, to ensure quality and consistency in the inspection program. Dr. Miller stressed that it is important that the Agency perform quality inspections to address the backlog and not just complete the inspections as quickly as possible. Mr. Collins seconded Dr. Miller's concern. Ms. McLean indicated that health and safety inspections were of good quality, but Increased Controls inspections were lacking. Mr. Lynch discussed his observations from the inspector accompaniments performed as part of the review. Mr. Lynch indicated that the inspections were adequate to address health and safety concerns. The MRB agreed that Arizona's performance met the standard for a "satisfactory, but needs improvement" rating for this indicator.

Ms. Sherrie Flaherty 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 Arizona's performance with respect to this indicator to be "unsatisfactory" and made four recommendations. The review team recommended that the State ensure its licenses are properly categorized and assigned the correct inspection frequency. The review team recommended that the State ensure proper documentation of training and experience for medical authorized users, authorized medical physicists, authorized nuclear pharmacists and radiation safety officers. The review team recommends that the State implement a detailed and documented license review system to ensure accuracy and consistency for all licensing actions. The review team recommended that the State implement the pre-licensing checklist and guidance for all licensing actions to ensure radioactive material will be used as specified on the license. Mr. Gray asked how Arizona's verification of qualifications was inconsistent with the regulations. Ms. Flaherty indicated that the State was using old requirements and, in some cases, using old forms to qualify new doctors. Mr. Gray also asked about confirmatory surveys and if the review team's observation was indicative of a larger issue. Ms. Flaherty replied that the review team identified general documentation issues. Ms. Rogers inquired about the State's use of peer and/or secondary reviews. Ms. Flaherty indicated there was very little secondary review.

Mr. Godwin indicated that the Agency has incorporated a peer review into its licensing process. The MRB agreed that Arizona's performance met the standard for an "unsatisfactory" rating for this indicator.

Mr. Tomas Herrera 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 Arizona's performance with respect to this indicator to be "satisfactory" and made no recommendations. Dr. Miller questioned if there had been an increase in the number of medical events in Arizona. Mr. Herrera replied that there was no indication of an increase. Mr. Collins asked about the lack of allegations. Mr. Lynch explained that States have different definitions of allegations from the NRC. Ms. Rogers indicated that her State does not get many allegations. The MRB agreed that Arizona's performance met the standard for a "satisfactory" rating for this indicator.

Non-Common Performance Indicators. Ms. McLean 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 Arizona's performance to be "satisfactory" and made no recommendations. Dr. Miller applauded the State for staying up to date on regulations. The MRB agreed that Arizona's performance met the standard for a "satisfactory" rating for this indicator.

Mr. Herrera presented the findings regarding the non-common performance indicator, Sealed Source and Device (SS&D) Evaluation Program. His presentation corresponded to Section 4.2 of the proposed final IMPEP report. The review team found Arizona's performance to be "satisfactory" and made no recommendations. The MRB agreed that Arizona'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 the Arizona program was found "satisfactory" for three performance indicators, "satisfactory, but needs improvement" for two performance indicators, and "unsatisfactory" for two performance indicators. Accordingly, the review team recommended, and the MRB agreed, that the Arizona program was "adequate, but needs improvement," and "compatible with NRC's program." The review team recommended, and the MRB agreed, to initiate a periodic of Heightened Oversight of the Arizona program. Based on the results of the IMPEP review, the review team recommended, and the MRB agreed, that a followup review take place in 1 year.

Comments. Mr. Godwin thanked the NRC for providing some on-the-job training via a qualified license reviewer that lives in the Phoenix area. Mr. Godwin indicated that the State is committed to improving its radioactive materials program. Ms. Hannah indicated that the Governor of Arizona is committed to providing quality service while protecting public health and safety. Mr. Virgilio thanked the review team, the State, and the MRB for their participation. Mr. Virgilio thanked Ms. Hannah for her involvement and appreciated the Governor's commitment. Ms. Flaherty was thankful for the opportunity to participate on an IMPEP review. Mr. Gallagher appreciated the opportunity to participate on this IMPEP review.

3. **Precedents/Lessons Learned.** The MRB established no new precedents to be applied to the IMPEP process during this meeting.
4. **Adjournment.** The meeting was adjourned at approximately 5:10 p.m.