

February 3, 2009

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

Steven A. Reynolds, Director  
Division of Nuclear Material Safety, Region III

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

SUBJECT: FEBRUARY 19, 2009 SPECIAL MRB MEETING TO  
DISCUSS THE STATUS OF ARIZONA'S PROGRAM  
IMPROVEMENT PLAN

A Special Management Review Board (MRB) meeting to discuss the status of Arizona's Program Improvement Plan has been scheduled for **Thursday, February 19, 2009, from 3:30 a.m. to 4:30 p.m. EST, in One White Flint North, Room O6-B6**. Arizona's Program Improvement Plan and the Agency's response to Arizona Program Improvement Plan are enclosed (Enclosures 1 and 2).

This meeting is open to the public. The agenda for this meeting is enclosed (Enclosure 3).

If you have any questions or need additional information, please feel free to contact me at (301) 415-1277.

Enclosures:  
As stated

cc: Aubrey Godwin, Director  
Arizona Radiation Regulatory Agency

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

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**Performance Improvement Plan and Progress Report**  
 October 14, 2008  
 Arizona Radiation Regulatory Agency

Recommendations	Task	Milestones	Assigned to	Anticipated Completion Date	Status	Actual Completion Date
1. State develop and use qualification journals to track and monitor training for technical staff.	A. Ensure training courses for technical/professional development.	1. Develop an ongoing annual training program	Haworth	7/1/2008	In place, copy attached	5/1/2008
		2. Assure implementation of annual training program with quarterly status reports to management.	Haworth	10/1/2008 <b>12/31/2008</b>	Quarterly report completed for <b>10/01/2008.</b>	9/29/2008
		3. Program Manager will meet with Director to discuss program issues and status.	Haworth	10/1/2008 <b>12/31/2008</b>	Upon receiving the Qty report the Director will meet. with PM.	9/30/2008
2. State ensure that license reviewers be provided appropriate training to ensure familiarity with medical license modalities.	A. Ensure training for license reviewers of medical licenses.	1. Develop a short term license reviewer training program.	Haworth	7/21/2008	Completed when J.Mullauer completed the mentoring session.	7/21/2008
		2. Develop a long term training program for license reviewers.	Haworth	7/1/2008	Completed	5/1/2008
		3. Demonstrates knowledge of the regulations.	Haworth	12/31/2008	Completed	10/10/2008
		4. Receive administrative orientation on administrative actions of the Department.	Haworth	Within 3 months of employment.	Completed	See attached.

Recommendations	Task	Milestones	Assigned to	Anticipated Completion Date	Status	Actual Completion Date
		5. Demonstrates basic understanding of Information Notices issued by the U.S. Nuclear Regulatory Commission.	Haworth	Information Notices are routed to all RAM personnel when received for review and sign-off.	<b>All routed information Notices routed to date have been reviewed and signed off .</b>	<b>This is an on-going process.</b>
3. 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 2800.	A. Improve quality of database.	1. Review each license entry in database to ensure accurate information is in database.	Haworth	11/15/2008	Initial complete as of 7/1/2008, second review now being accomplished.	
	B. Distribute listing of overdue and scheduled inspections	1. Review and distribute monthly.	Haworth	10/1/2008	September 26 listing attached.	
		2. Develop schedule for inspections.	Inspectors	10/10/2008	Each month files which have not received a response are reviewed to determine if a response is overdue.	10/9/2008
4. State conduct follow up inspections of licensees with unresolved violations or issues with regard to the Increased Controls requirements to ensure that	A. Follow up on each identified unresolved violation or issue.	1. Close out each file as the responses are received, monthly reports.	Goretzki	10/3/2008	September review completed	10/9/2008
		2. Recheck inspection data each month to identify licensees overdue to respond.	Goretzki	10/3/2008	September review completed	10/9/2008

Recommendations	Task	Milestones	Assigned to	Anticipated Completion Date	Status	Actual Completion Date
appropriate corrective actions were implemented.		3. Initiate correspondence when response is overdue by 15 days and reinspect if response is overdue by 40 days.	Goretzki	9/3/2008	September review completed	10/9/2008
5. The State review its Increased Controls files to ensure that all sensitive security-related documents are labeled accordingly.	A. Review each file as it is processed for sensitive documents.	1. Review application documents for sensitive documents.	Kern	Continuous, three independent reviews are made as each licensing action is completed	Latest revised check lists dated 8/22/2008	8/22/2008
		2. Review inspection responses for sensitive information.	Goretzki	Continuous, three independent reviews are made to assure all material is properly marked and filed.	Currently a review is made for each inspection report by at least 2 individuals plus the inspector.	5/31/2008
6. The State should have a manager accompany each inspector, at least annually, to ensure quality and consistency in the inspection program.	A. Management accompany each inspector on at least one inspection per month, see 3.C. above	1. 1. Report of each accompaniment placed in respective inspector training file. Updated monthly	Hayworth-Godwin	10/3/2008	September accompaniment report completed 9/29/2008.	9/29/2008
7. The State ensures its licenses are properly categorized and assigned the correct inspection frequency.	A. See 3.A. above	1. See 3.A.1. above.	Haworth	11/15/2008	Initial complete as of 7/1/2008, second review in progress	

<b>Recommendations</b>	<b>Task</b>	<b>Milestones</b>	<b>Assigned to</b>	<b>Anticipated Completion Date</b>	<b>Status</b>	<b>Actual Completion Date</b>
8. The State ensure proper documentation of training and experience for authorized users, authorized medical physicist, authorized nuclear pharmacists and radiation safety officers.	A. Prepare preceptor attestations.	1. Complete the blank attestations	Kern	3/30/2008	Completed, March 2008. In use, copies supplied by fax.	3/30/2008
	B. Develop a licensing check list for each license type.	1. Develop at least one licensing check list each month.	Kern	Monthly check on progress, 10/3/2008	Using the check lists in appropriate NUREG-1556. Developing licensing review comments. Copy being finalized.	
9. The State implement a detailed and documented license review system to ensure accuracy and consistency for all licensing actions.	A. See 8.B. above	1. See 8.B.1. above. In addition, review by at least 2 other staffer to confirm all actions appropriate and consistent.	Kern	Multiple reviews implemented 5/31/2008, the check list development is still in progress.	Multiple reviews implemented 5/31/2008, the check list development is still in progress with monthly reviews	Multiple reviews, 05/31/2008
10. The State implement the pre-licensing checklist and guidance for all licensing actions to provide assurance that radioactive material will be used as specified on the license.	A. Develop a pre-licensing checklist compatible with the NRC guidance for assuring the radioactive material will be utilized in accordance with license.	1. The pre-licensing checklist to be developed and implemented by 4/1/2008.	Kern	4/1/2008	In use. Copy attached	4/1/2008



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

January 6, 2009

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

Dear Mr. Godwin:

We have reviewed the Program Improvement Plan (Plan) you submitted to the U.S. Nuclear Regulatory Commission (NRC), as required by the heightened oversight process. Heightened oversight is an increased monitoring process that NRC uses to track the progress of needed improvements in an Agreement State program experiencing performance weaknesses. It involves preparation of a program improvement plan, bimonthly conference calls, and submission of status reports prior to each call with the appropriate Arizona and NRC managers and staff members. As written, NRC staff is not confident that your Plan will satisfy the recommendations from the 2008 IMPEP review, if fully executed.

We identified the following specific comments on your Plan that you will need to take into consideration when revising your Plan:

- 1) The "Tasks" in the Plan need to be more detailed and relate directly to the associated recommendation. On several of the tasks, it is unclear how the task will resolve the recommendation. For example, on Recommendation 3, Task B, the distribution of a listing of overdue and scheduled inspections will not resolve the recommendations. A task to resolve the recommendation would be to eliminate the backlog of overdue inspections while addressing all routine inspections that are coming due.
- 2) The list of "Milestones" should be more comprehensive and relate directly to the task. As stated in our first comment, some of the tasks in the report are more appropriate as milestones. The milestones should walk a reader of the Plan through the various actions that will achieve the task that will ultimately resolve the recommendation.
- 3) "Anticipated completion dates" need to be listed for all milestones.
- 4) The "Status" section of each milestone needs to be completed and have more detail. For certain items, the status should reflect quantitative information. As an example, the status for Recommendation 6, Task A, Milestone 1 should indicate the number of accompaniments completed out of the number of accompaniments that need to be completed. This is preferred to attaching documents to the Plan. The Plan should be a stand-alone document.
- 5) For Recommendation 1, Task A, Milestone 1, you do not need to attach a copy of the training program. This document will be examined during on-site reviews.

**Enclosure 2**

- 6) For Recommendation 3, Task B, please provide quantitative information on the number of inspections completed (overdue, routine, reciprocity) rather than attaching the list of overdue and upcoming inspections.
- 7) For Recommendation 4, Task A, it is unclear if the State intends to perform followup inspections of licensees with unresolved violations of issues with regard to Increased Controls as requested in the recommendation.
- 8) For Recommendation 6, Task A, it is not clear if inspector accompaniments were completed for 2008. It is also not clear if there are plans for future accompaniments.
- 9) For Recommendation 9, Task A, there should be a process for periodic management review of the quality of licensing actions to ensure that reviewers are following the checklists that are being developed for Recommendation 8, Task B. As written it is unclear how the accuracy and consistency will be ensured.

At the July 21, 2008 Management Review Board (MRB) Meeting, the MRB placed the Arizona Agreement State Program on heightened oversight and requested that NRC staff conduct a followup review approximately 1 year after the February 2008 review. Because we have not received an acceptable Plan yet, at the next MRB meeting, scheduled for January 14, 2009, I will make a motion that NRC forego scheduling a followup review and, instead, dispatch a team to your program office in Phoenix, Arizona, to assist you in developing and implementing an acceptable Plan. You will be invited to participate in the MRB's deliberations and to provide the status of the Arizona Agreement State Program at the time of the meeting. We expect that the on-site meeting will be successful in developing an effective Plan. Any remaining issues that are barriers to timely and meaningful program improvements will be pursued through appropriate means.

If our motion is approved by the MRB, the team will be able to provide you with specific insights on how to address these comments while it is in Phoenix. Once an acceptable Plan is in place, we will commence the bimonthly conference calls.

Sincerely,

*/RA/*

Robert J. Lewis, Director  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials  
and Environmental Management Programs

- 6) For Recommendation 3, Task B, please provide quantitative information on the number of inspections completed (overdue, routine, reciprocity) rather than attaching the list of overdue and upcoming inspections.
- 7) For Recommendation 4, Task A, it is unclear if the State intends to perform followup inspections of licensees with unresolved violations of issues with regard to Increased Controls as requested in the recommendation.
- 8) For Recommendation 6, Task A, it is not clear if inspector accompaniments were completed for 2008. It is also not clear if there are plans for future accompaniments.
- 9) For Recommendation 9, Task A, there should be a process for periodic management review of the quality of licensing actions to ensure that reviewers are following the checklists that are being developed for Recommendation 8, Task B. As written it is unclear how the accuracy and consistency will be ensured.

At the July 21, 2008 Management Review Board (MRB) Meeting, the MRB placed the Arizona Agreement State Program on heightened oversight and requested that NRC staff conduct a followup review approximately 1 year after the February 2008 review. Because we have not received an acceptable Plan yet, at the next MRB meeting, scheduled for January 14, 2009, I will make a motion that NRC forego scheduling a followup review and, instead, dispatch a team to your program office in Phoenix, Arizona, to assist you in developing and implementing an acceptable Plan. You will be invited to participate in the MRB's deliberations and to provide the status of the Arizona Agreement State Program at the time of the meeting. We expect that the on-site meeting will be successful in developing an effective Plan. Any remaining issues that are barriers to timely and meaningful program improvements will be pursued through appropriate means.

If our motion is approved by the MRB, the team will be able to provide you with specific insights on how to address these comments while it is in Phoenix. Once an acceptable Plan is in place, we will commence the bimonthly conference calls.

Sincerely,

**/RA/**

Robert J. Lewis, Director  
 Division of Materials Safety and State Agreements  
 Office of Federal and State Materials  
 and Environmental Management Programs

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DATE	12/17/08	12/17/08	12/17/08	01/06/09

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**Agenda for Management Review Board Meeting  
February 19, 2009, 3:30 p.m. - 4:30 p.m. (EST), OWFN-06-B6**

1. Announcement of public meeting, request for members of the public to indicate they are participating and their affiliation.
  
2. MRB Chair convenes meeting. Introduction of MRB members, review team members, State representatives, and other representatives participating remotely. (Organization of Agreement States (OAS) Liaison is Cheryl Rogers of Wisconsin.)
  
3. Discussion of the Arizona Program Improvement Plan.
  - A. Status of Arizona's Program Improvement Plan.
  - B. NRC Staff Recommendations.
  - C. MRB Consultation/Comments.
  
4. Request for comments from Arizona representatives and OAS Liaison.
  
5. Adjournment.

Invitees:      Martin Virgilio, DEDMRT  
                    Karen Cyr, OGC  
                    Charles Miller, FSME  
                    Steven Reynolds, RIII  
                    Cheryl Rogers, WI  
                    Aubrey Godwin, AZ  
                    Robert Lewis, FSME  
                    Terrence Reis, FSME  
                    Andy Imboden, FSME  
                    Karen Meyer, FSME

Linda McLean, Region IV  
Aaron McCraw, FSME  
Donna Janda, Region I  
James Lynch, Region III  
Janine Katanic, FSME  
William Rautzen, FSME  
Alison Rivera, OEDO  
Art Howell, Region IV  
Chuck Cain, Region IV