UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BLVD
ARLINGTON, TEXAS 76011-4511

March 14, 2013

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

Dear Mr. Godwin:

A periodic meeting with you and your staff was held on February 12, 2013. The purpose of this meeting was to review and discuss the status of the Arizona Agreement State Program. The U.S. Nuclear Regulatory Commission (NRC) was represented by Vivian Campbell and Linda Gersey from the Division of Nuclear Materials Safety (DNMS) in NRC Region IV, Janine Katanic from the Office of Federal and State Materials and Environmental Management Programs (FSME), and me. I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions.

Since we were unable to determine the status of your regulations at the time of the meeting, we are requesting you provide us with the status of each overdue regulation and where it is in the process. Additionally, we are asking that you provide us with a timeline for regulation development in Arizona, including time allotted to each specific step in the process.

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 817-200-1143 or email Randy.Erickson@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Randy Erickson
Regional State Agreements Officer

Enclosure:
Arizona Periodic Meeting Summary

cc/w encl: Kevin R. Kinsall, Policy Advisor,
Natural Resources, Office of the Governor

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR THE
ARIZONA RADIATION REGULATORY AGENCY

DATE OF MEETING: FEBRUARY 12, 2013

NRC Attendees	Arizona Attendees
Randy Erickson, SAO	Aubrey Godwin, Director
Vivian Campbell, RIV	Brian Goretzki, Program Manager
Linda Gersey, SAO	
	Janine Katanic, FSME

DISCUSSION:

The Arizona Agreement State program is administered by the Arizona Radiation Regulatory Agency (the Agency). The Agency director reports directly to the Governor. The previous IMPEP review was conducted the week of March 26-30, 2012. Arizona's performance was found satisfactory but needs improvement for the performance indicator, Compatibility Requirements and satisfactory for the remaining indicators.

At the conclusion of the review, the review team recommended, and the MRB agreed that Arizona's Agreement State program was adequate to protect public heath and safety and compatible with the NRC's program. The review team made no recommendations in regard to the program performance by the Arizona Agreement State Program during the review.

Program Strengths: The Arizona program has four health physicists on staff that are trained to perform inspections and conduct licensing actions. This cross training allows staff to be diverted to respond to incidents and have qualified staff as backup. The Agency noted that all four staff members have the necessary initial training and the Agency has no problems being accepted into the NRC training classes. These four staff members also perform emergency response duties as required.

Program Weaknesses: The Agency noted three areas of program weakness. Although the four staff members can perform inspections and licensing, the small number of staff would make completion of work difficult if one staff member were to leave. At this time, one staff member is planning to retire and the Agency is looking at options for filling this position. The director has stated that there may be three x-ray positions being added, and there is a possibility that one position may be added to the materials program.

Arizona is also working on improving their web-based licensing database. The Agency has been working with the NRC to resolve some of the hardware and software issues.

While a moratorium is still in effect for new regulations, the Agency can adopt new regulations if they can show they are required to meet federal requirements. The Agency has found it helpful to provide the governor's office with NRC letters reminding them of their responsibilities under the agreement with the NRC. In the mean time, the Agency is using license conditions when necessary to ensure compatibility with NRC regulations.

Enclosure

Feedback on NRC's Program: The Agency has stated that they have had no issues being accepted into the NRC training class when needed. They praised the technical support they receive from NRC headquarters and the NRC State Agreements Officer. One problem concerns the access to the National Source Tracking System (NSTS). This was identified as a non-NRC related IT problem within the State IT system and it will be resolved by having the contractor provide a password instead of using a card reader for access. Even though they cannot get access to NSTS directly, the NSTS help desk has been providing the program staff with requested information.

Staffing and Training: There are still eight staff members contributing to the program totaling approximately 4.5 full-time-equivalents, with no staff turnover. One staff member may retire soon and the Agency is looking at how to back fill this position, possibly using one position slated for the x-ray program. The current staffing is acceptable to complete inspections and licensing actions, although if and when the one individual leaves, it will be difficult to replace that person's experience.

The Agency has four health physicists trained to perform inspection and licensing duties. All initial training classes for these individuals have been completed. There is no concern about acceptance into the NRC training classes when required.

Materials Inspection and Licensing Program: The Agency currently has 362 materials licenses. This is a change from 371 licenses at the time of the 2012 IMPEP. One reason for the decrease in licenses was the consolidation of several licenses into one license by several entities. The Agency reported that no inspections or licensing actions were over due at this time. The Agency performs pre-licensing visits for all licensees. Upon an acceptable pre-licensing visit, the Agency gives the license to the licensee while onsite. The Agency reported that they were performing inspector accompaniments by management twice annually.

Sealed Source and Device Program: During the 2012 IMPEP review, it was noted that one license that had authorized distribution of devices to persons generally licensed and specifically licensed was terminated without addressing the inactivation or transfer of four sealed source and device (SS&D) registrations made part of the license and issued by the Agency. The Program Manager committed to the review team that the Agency will address the inactivation of the four SS&D registrations in the near future. Following the onsite review, the Agency received a letter from the licensee that indicated the devices are still being actively distributed under the licensee's Georgia license and that the State of Georgia will amend the SS&D registrations after the Commonwealth of Massachusetts completes its review of a new source capsule that will be used in the devices. The Agency stated that Massachusetts had completed its review and Georgia had amended the SS&D in December 2012. This action has been closed by the Agency. No SS&D reviews have been conducted since 2007, and there are none planned at this time.

Regulations and Legislative Changes:

The Agency has one staff member who spends approximately 10 percent of their time reviewing and updating regulations and is the only person who can speak to the status of the regulations. That staff member was not available for the meeting. The Director

committed to having this individual provide the NRC with a status of the regulations, as well as providing the NRC with the steps required for Arizona to promulgate rules and an approximate time line of how these actions occur.

The following regulations have not been submitted to the NRC for review:

- "Decommissioning Recordkeeping and License Termination: documentation Additions [Restricted areas and spill sites]," 10 CFR Parts 30, 40 (58 FR 39628), that was due for Agreement State adoption by October 25, 1996.

- "Frequency of Medical Examinations for Use of Respiratory Protection Equipment," 10 CFR Part 20 (60 FR 7900), that was due for Agreement State adoption by March 13, 1998.

- "Medical Use of Byproduct Material - Recognition of Specialty Boards," 10 CFR Part 35 amendment (70 FR 16336 and 71 FR 1926), that was due for Agreement State adoption by April 29, 2008.

- "Minor Amendments," 10 CFR Parts 20, 30, 32, 35, 40, and 70 amendments (71 FR 15005), that was due for Agreement State adoption by March 27, 2009.

- "Medical Use of Byproduct Material – Minor Corrections and Clarifications," 10 CFR Parts 32 and 35 amendments (72 FR 45147, 72 FR 54207), that was due for Agreement State adoption by October 29, 2010.

- "Requirements for Expanded Definition of Byproduct Material," 10 CFR Parts 20, 30, 31, 32, 33, 35, 61, and 150 amendments (72 FR 55864), that was due for Agreement State adoption by November 30, 2010.

- "Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent," 10 CFR Parts 19, 20 (72 FR 68043, that was due for Agreement State adoption by February 15, 2011.

- "Medical Use of Byproduct Material – Authorized User Clarification," 10 CFR Part 35 amendment (74 FR 33901), that is due for Agreement State adoption by September 28, 2012.

The following regulations were adopted by Arizona as final, although the NRC had comments. The NRC is awaiting resolution of NRC comments.

- "Medical Use of Byproduct Material," 10 CFR Parts 20, 32, and 35 amendments (67 FR 20249), that was due for Agreement State adoption by October 24, 2005.

- "Compatibility with IAEA Transportation Safety Standards and other Transportation Safety Amendments," 10 CFR Part 71 (69 FR 3697), that was due for Agreement State adoption by October 10, 2007.

- "Exemptions from Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements," 10 CFR Parts 30, 31, 32, 150 amendments (72 FR 58473), that was due for Agreement State adoption by December 17, 2010.

The following are regulation changes and adoptions that will be needed in the future:

- "Decommissioning Planning," 10 CFR Parts 20, 30, 40, and 70 amendments (76 FR 35512), that is due for Agreement State adoption by December 17, 2015.

- "Licenses, Certifications, and Approvals for Materials Licensees," 10 CFR Parts 30, 36, 39, 40, 70, and 150 amendments (76 FR 56591), that is due for Agreement State adoption by November 14, 2014.

- "Change of Compatibility of 10 CFR 31.5 and 31.6 (See RATS ID: 2001-1 for Rule Text)," 10 CFR Part 31 amendment (77 FR 3640), that is due for Agreement State adoption by January 25, 2015.

- "Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste," 10 CFR Part 71 amendment (77 FR 34194), that is due for Agreement State adoption by August 10, 2015.

- "Technical Corrections," 10 CFR Parts 30, 34, 40, and 70 amendments (77 FR 39899), that is due for Agreement State adoption by August 6, 2015.

- "Requirements for Distribution of Byproduct Material," 10 CFR Parts 30, 31, 32, 40, and 70 amendments (77 FR 43666), that is due for Agreement State adoption by October 23, 2015.

Changes in Program budget/funding: There have been no changes to the program budget/funding since the 2012 IMPEP.

Event Reporting, including follow-up and closure information in NMED: Since the 2012 IMPEP, there were nine events reported to NMED, and two were pending closure. One open event was pending the final report which was due to be issued by February 15, 2013, and the second open event has just occurred and follow-up was still occurring.

Response to Incidents and Allegations: Since the 2012 IMPEP, no allegations had been referred to Arizona by the NRC. No new significant events with generic implications had occurred.

Emerging Technologies or Unusual Authorization for Use of Radioactive Material: The Agency stated that there was no emerging technologies or unusual authorizations for use of radioactive materials. They discussed several licensees that increased possession limits that required financial assurance and these were being handled accordingly.

Schedule for the next IMPEP review: It is recommended that another Periodic Meeting occur in approximately 18 months and that the next IMPEP review occurs as scheduled in 2015.