



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 E. LAMAR BLVD., SUITE 400
ARLINGTON, TEXAS 76011-4125

February 28, 2011

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

Dear Mr. Godwin:

A periodic meeting with you and your staff was held on February 1, 2011. The purpose of this meeting was to review and discuss the status of the Arizona Agreement State Program. The NRC was represented by Mr. Roy Caniano from NRC's Region IV office and me. I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions.

In addition to a discussion of general topics associated with your program, we also met with Mr. Kevin Kinsall, Policy Advisor to Governor Janice Brewer. This meeting was held in part, to discuss the Program's progress under Heightened Oversight and the Program's response to recent events.

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 Randy.Erickson@nrc.gov to discuss your concerns.

Sincerely,

/RA Rachel S. Browder for/

Randy Erickson
Regional State Agreements Officer

Enclosure:
Periodic Meeting Summary for Arizona

Arizona Radiation Regulatory Agency

-2-

cc w/enclosure:

Mr. Kevin Kinsall
Policy Advisor on
Natural Resources
Office of the Governor
1700 West Washington Street
Phoenix, AZ 85007

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR THE
ARIZONA RADIATION REGULATORY AGENCY

DATE OF MEETING: FEBRUARY 1, 2011

NRC Attendees	California Attendees
Randy Erickson, RSAO	Aubrey Godwin, Director
Roy Caniano, Director, DNMS	Brian Goretzki, Health Physicist
	Dan Kuhl, Health Physicist
	Jerry Perkins, Health Physicist
	Wayne Yates, Health Physicist

DISCUSSION:

The Arizona Agreement State Program (Program) is administered by the Arizona Radiation Regulatory Agency (Agency). The Agency Director reports directly to the Governor.

The previous IMPEP follow up review was conducted the week of March 29 – April 1, 2010. At the conclusion of the review the team found that Arizona's performance was found satisfactory for the indicator, Technical Quality of Inspections, and satisfactory, but needs improvement, for the indicators Technical Staffing and Training, Status of Materials Inspection Program, and Technical Quality of Licensing Actions. The review team closed eight of 10 recommendations, and opened two new recommendations. Accordingly, the review team recommended, and the MRB agreed, that the Arizona Agreement State Program is adequate to protect public health and safety, but needs improvement, and compatible with NRC's program. The MRB also concluded that the period of Heightened Oversight should continue and that the Agency's Program Improvement Plan be amended to address the recommendations of the follow up IMPEP review. Additionally, the MRB agreed with the team's recommendation that the next full IMPEP review should take place in two years and that a Periodic Meeting be held within one year.

The proposed status of the recommendations from the 2010 Arizona final IMPEP report is summarized below.

- The review team recommends that the State review and update, if appropriate, the Agency's staffing and budget plan to ensure Program needs are met and to maintain long-term stability of the Program. (Section 2.1)

Status: At the present time the FY11 budget has been funded. The Program submitted their budget request for FY12 with no increases and when the Governor's proposed budget came out, it did not cut the Program's funding. The Governor's proposed budget is under legislative review.

The Program currently has three vacancies. The Program solicited internally for one of those positions and one staff member will transfer over to the materials program in the near future. The Program Manager also retired following the follow up IMPEP review,

ENCLOSURE

and the Program is now in the process of soliciting for that position. The Program Director does not believe management will allow him to fill the third position at the present time. He believes that when the two vacancies are filled, and with occasional assistance from other areas of the Program, they will have sufficient staffing to keep up with the current workload. This recommendation remains open.

- The review team recommends that an Agency manager accompany each inspector, at least annually, to ensure quality and consistency in the inspection program. (Section 2.3)

Status: The Program has accompanied all four of the inspection staff; however, at the time of the meeting, they had not yet fully completed the documentation. The Program also reported they are committed to a more aggressive schedule for supervisor accompaniments. They plan to accompany inspectors once every six months instead of an annual accompaniment. This recommendation remains open.

- The review team recommends that 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. (Section 2.4)

Status: The Program reported they had been following the pre-licensing guidance provided by NRC, but that initially they had misunderstood the meaning of "person". During the follow-up review, the review team noted that the Program used the pre-licensing checklist on all new licensing actions. However, they failed to use it for certain specific change-of-ownership actions as well as certain new applicants they believed to be known entities because they were named as authorized users or radiation safety officers on other licenses. Program staff did not recognize that the owner is the actual licensee, and if they did not have a relationship with that specific individual, the pre-licensing guidance had to be used. The Program has subsequently modified their pre-licensing checklist to reflect this understanding, and have trained the licensing staff. This recommendation should be verified and closed at the next IMPEP review.

- The review team recommends that the State review its radioactive materials licenses regarding the requirements for financial assurance, and either obtain financial assurance for licenses that are authorized to possess the applicable quantities, or revise the license conditions to ensure clear quantity limits that will not require provision of financial assurance. (Section 2.4)

Status: The Program reported that they have completed a review of all licenses to determine if financial assurance applies to them. This recommendation should be verified and closed at the next IMPEP review.

Other topics covered at the meeting included.

Program Strengths: The Program has struggled with budget shortfalls that have left the Program short staffed, short of funding, and struggling to maintain the workload; however, the staff has pulled together to ensure that the licensing and inspection programs do not fall behind, and that incidents and allegations are investigated.

They have successfully integrated the added workload associated with Increased Controls, as well as fingerprinting and NSTS requirements. Staff members are dedicated and work well together providing a high level of customer service to their licensees.

Program Weaknesses: The Program's biggest challenge has been budgeting and hiring staff. Currently a hiring freeze is in place. They are also having difficulty having pay increases approved. They are currently under furlough six days per year and experienced a 2.5 percent pay cut when performance pay was eliminated.

Feedback on NRC's Program:

The Program indicated they are appreciative for NRC training funds. That program works well for Arizona and they have been able to get staff needed training. They believe they would benefit greatly if NRC would begin paying for the Five Week Health Physics course because they are unable to hire trained staff with the salaries presently offered. They are forced to train their own staff.

Staffing and training:

The Arizona Program will have three fulltime inspectors when the individual transferring in from another part of the Program begins work. That still leaves two vacancies. As indicated above, they are in the process of hiring for the Program Manager position, and they don't believe they will be allowed to fill the last remaining position at the present time. One individual retired recently, but they have not had a lot of staff turnover.

The status of Agreement State staff members who fail NRC core training courses was discussed. The Program did not have any staff fail a required training course this review period. NRC staff discussed the expectations for alternative training or retraining of their staff should class failure occur in the future.

Program reorganizations:

None Noted.

Changes in Program budget/funding:

As discussed above, funding for the Arizona Program has been a recurring problem in recent times. They are currently fully funded for FY11 and have submitted their FY12

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budget without an increase in funding. The Governor's proposed budget does not cut the Program's funding; however, the budget is still under review by the legislature and changes could still be made to it.

Materials Inspection Program:

The Program reported that they currently have no overdue inspections. Routine inspections are generally performed by the due date, but occasionally inspections are performed within the allowed +25 percent window. Initial inspections are typically performed within 12 months of issuance. They continue to inspect reciprocity licensees and have not had difficulty performing inspections on at least 20 percent of candidate reciprocity licensees.

The Program indicated that all IC licensees have implemented the fingerprinting requirements. IC inspections are performed in conjunction with routine health and safety inspections. Fingerprinting and NSTS requirements are also reviewed at the time of inspection.

The Program reported they are not behind on licensing. They noted that if they do not meet State mandated licensing timeliness goals, they have to refund money to the legislature.

Regulations and Legislative changes:

The Program reported they are not seriously behind on regulations. The most overdue regulation was due in 2009. The Program reported that this regulation is in a regulation package that is being prepared for submission to NRC in the near future.

There have been no new legislative actions that have directly impacted the Program.

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

Between the date of the 2010 IMPEP review and the 2011 Periodic Meeting, the Program had reported 3 events to NMED. Those three events remain open.

Response to incidents and allegations.

The Branch continues to be sensitive to notifications of incidents and allegations. Incidents are reviewed for their affect on public health and safety. Incidents are evaluated for safety significance and staff is dispatched to perform onsite investigations whenever possible.

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

None Noted.

ENCLOSURE

Significant events and generic implications.

The Program identified a brachytherapy incident at a local hospital involving a medical device used in conjunction with an HDR unit, and the resultant Abnormal Occurrence as a significant event they are currently working on.

Current State Initiatives.

The Program noted that furloughs continue. No specific end date has been identified.

Emerging Technologies.

Nothing specific noted.

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

Nothing specific noted.

State's mechanisms to evaluate performance.

Program managers review performance reports involving licensing actions, inspections performed, incidents reported, and reports reviewed. Inspector accompaniments are also performed to ensure they are performing at the expected level.

Current NRC initiatives:

NRC staff discussed ongoing NRC initiatives with the Branch. These included in part, NRC's safety culture policy statement, web based licensing, NSTS, the NUREG 1556 revision process, the revisions to IMC 2800, the proposed Part 37 and accompanying guidance document, and potential changes to Part 20.

Summary:

The Program continues to struggle with staffing and budgeting, but they are keeping up with their work. They have not yet submitted a Program Improvement Plan (PIP) that is acceptable to NRC, but they continue to work on revising the document. It is recommended that the MRB continue the period of Heightened Oversight.

Schedule for the next IMPEP review:

It is recommended that the next IMPEP review to be held on schedule in April 2012.

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