



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION IV
1600 E. LAMAR BLVD.
ARLINGTON, TX 76011-4511

March 15, 2018

Brian Goretzki, Chief
Bureau of Radiation Control
Arizona Department of Health Services
4814 South 40th Street
Phoenix, Arizona 85040

Dear Mr. Goretzki:

A periodic meeting with you, Mr. Tom Salow, Branch Chief for the Arizona Department of Health Services, and other members of your staff was held on February 28, 2018. 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 Mark Shaffer, Director, Division of Nuclear Materials Safety (DNMS) and me.

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions. A Management Review Board meeting to discuss the outcome of the periodic meeting will be scheduled and the date and time will be provided to you in a separate transmission.

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 via e-mail at Randy.Erickson@nrc.gov to discuss your concerns.

Sincerely,

/RA/

Randy R. Erickson
State Agreements Officer
Division of Nuclear Materials Safety

Enclosure:
Periodic Meeting Summary

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
 ARIZONA DEPARTMENT OF HEALTH SERVICES
 DATE OF MEETING: FEBRUARY 28, 2018

U.S. Nuclear Regulatory Commission (NRC) Attendees	Arizona Bureau of Radiation Control Attendees
Mark Shaffer, Director, Division of Nuclear Materials Safety, Region IV	Tom Salow, JD, Branch Chief Arizona Department of Health Services
Randy Erickson, Regional State Agreements Officer, Region IV	Brian Goretzki, Chief Bureau of Radiation Control
	Colby McCormick State Health Physicist

DISCUSSION: The previous Integrated Materials Performance Evaluation Program (IMPEP) review was conducted the week of March 28 – April 1, 2016. At the time of the 2016 review, the Arizona Agreement State Program was administered by the Arizona Radiation Regulatory Agency (Agency), and at that time the Agency Director reported directly to the Governor. The name of the Agency was subsequently changed to the Arizona Bureau of Radiation Control (Bureau) and now reports to the Arizona Department of Health Services (Department).

On December 31, 2017, the Agency was transitioned into the Arizona Department of Health Services by passage of House Bill 2075. At the conclusion of the 2016 review, the team found the Agency’s performance to be satisfactory for all six indicators reviewed. No recommendations were made for the Agency. The team also recommended, and the Management Review Board (MRB) agreed, that the Arizona Agreement State Program was adequate to protect public health and safety, was compatible with the NRC program; and, that the next IMPEP review should take place in approximately four years.

TOPICS COVERED DURING THE MEETING INCLUDED:

Program Challenges

- Since the transition, the Bureau is in the process of completing overdue regulation adoption and changing the codification of all their regulations to a new codification structure. This is taking significant effort on their part to complete it.
- Since the departure of the previous Agency Director in July 2016, the current Bureau Chief has been performing the duties of both the Bureau Chief as well as the Program Supervisor. That arrangement is not expected to change as the Bureau’s staff is capped and the Bureau Chief feels he gets more from filling that position with an inspector than he would from a supervisor.

Feedback on NRC’s Program

- The Bureau Chief expressed his support for the IMPEP process both as a means of reviewing their program, and also as a learning tool by participating in the process. He further expressed his support for the Periodic Meeting process as a valuable tool to help States take a hard look at their program between IMPEP cycles.

Program Reorganizations

As discussed previously, the Agency was transitioned into the Arizona Department of Health Services by House Bill 2075 on December 31, 2017. The Agency became the Bureau of Radiation Control.

Program Budget/Funding

Currently, there are no changes in the budget or funding; however, there is legislation submitted that would make the Bureau fee funded. The legislation is contained in House Bill 2257. They are also looking at submitting a request for a fee increase in the next 12-24 months.

Technical Staffing and Training (2016 IMPEP: Satisfactory)

The Bureau is administratively capped at 30 staff members with 4.5 full-time equivalents assigned to the radioactive materials program. There are currently two long term vacancies with no immediate plans to fill the vacancies. Additionally, since the 2016 IMPEP review two materials inspectors with 33 and 14 years of experience retired. Those positions were quickly filled and staff are going through the Bureau's qualification program. One of the retired individuals returned on a part-time basis to perform a few inspections per week. He is currently occupying the vacant program supervisor position but as an inspector.

As noted above, the Bureau has had the two vacant positions for several years covering multiple IMPEP review periods. These are approved positions that have never been funded. The Bureau was then capped at 30 total staff members, so while the positions are approved, they have never been filled. Previous review teams have evaluated the potential effect of the vacancies on the Bureau and have not identified any associated performance issues.

The Bureau has a documented training and qualification plan consistent with NRC's Inspection Manual Chapter (IMC) 1248, "Qualification Programs for Federal and State Materials and Environmental Management Programs." Staff individually track continuing education requirements of 24 hours every two years and report that back to the Bureau Chief who reviews their progress quarterly.

Status of Materials Inspection Program (2016 IMPEP: Satisfactory)

Technical Quality of Inspections (2015 IMPEP: Satisfactory)

The Bureau reported they conducted 101 Priority 1, 2, and 3 inspections since the 2016 IMPEP review. One inspection was conducted 21 days overdue using the new Inspection Manual Chapter 2800 criteria of plus 50 percent of the inspection frequency. They determined that the cause for the late inspection was a data error in the information transfer during creation of a new database. They subsequently reviewed the input data for each license to ensure that they were no additional input errors and found none. At the time of the meeting, no inspections were overdue.

The Bureau reported they had granted 91 reciprocity authorizations since the 2016 IMPEP review. The Bureau further reported they had performed a total of 21 percent of candidate reciprocity inspections in 2016, 26 percent in 2017, and 6 percent from January 1, 2018 through the date of the meeting.

The Bureau continues to perform annual supervisor accompaniments of each inspector with none being missed since the 2016 IMPEP review. They also assess timeliness goals for forwarding inspection findings to licensees following an inspection, and discuss those findings with inspectors.

Technical Quality of Licensing Actions (2016 IMPEP: Satisfactory)

The Bureau currently has 347 specific licensees. License reviewers completed a total of 554 licensing actions since the 2016 IMPEP review. At the time of the meeting, the Bureau had five licenses under timely renewal.

At the time of the meeting, the Bureau was following NRC's revised pre-licensing guidance. All new licenses get a pre-licensing visit. It is not the current practice for Bureau staff to visit the site upon change of ownership, unless the change of ownership is for a license falling under Part 37 equivalent regulations. No licenses are delivered at the time of pre-licensing visits. All licenses are mailed only after a pre-licensing visit has taken place and the license has undergone peer review. There have been no changes to this process since the 2016 IMPEP.

Technical Quality of Incidents and Allegations (2016 IMPEP: Satisfactory)

At the time of the meeting the Bureau had reported 11 events to the Nuclear Material Events Database since the 2016 IMPEP review. Only two events from January 2018 remained open.

Since the 2016 IMPEP review the Bureau has received two allegations directly and followed up on them within the scope of their documented allegation review program. No allegations were referred to the Bureau by the NRC since the 2016 IMPEP review.

Regulations and Legislative Changes (2016 IMPEP: Satisfactory)

Arizona became an Agreement State on May 15, 1967. The Program's statutory authority is located in Title 30, Chapter 4 of the Arizona Revised Statutes, "Control of Ionizing Radiation." The Bureau is now designated as Arizona's radiation control agency and implements the radiation control program.

Only one significant legislative change occurred since the 2016 IMPEP review which was a reorganization for the Radiation Control Program. At the time of the 2016 IMPEP review, the Arizona Agreement State Program was administered by the Arizona Radiation Regulatory Agency, and at that time the Agency Director reported directly to the Governor. On December 31, 2017, the Agency was transitioned into the Arizona Department of Health Services by passage of House Bill 2075. The name of the Agency was subsequently changed to the Arizona Bureau of Radiation Control and now reports to the Arizona Department of Health Services Director.

At the time of the meeting the Bureau had one regulation package containing 12 amendments that was awaiting approval by the Governor's office. Nine of the 12 amendments were overdue for adoption. The Bureau Chief noted that the completed regulation package had been submitted for approval prior to their reorganization, but was likely held in abeyance until the transition was completed. They anticipate approval soon.

The following is a listing of the complete regulation package awaiting approval. When approved it will bring all rules up to date.

- “Decommissioning Planning,” Title 10 of the *Code of Federal Regulations* (10 CFR) Parts 20, 30, 40, and 70 amendments (76 FR 35512), that were 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 56951), that were due for Agreement State adoption by November 14, 2014.
- “Change of Compatibility of Parts 31.5 and 31.6,” 10 CFR Part 31 amendment (77 FR 3640), that was 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 was due for Agreement State adoption by August 10, 2015.
- “Technical Corrections,” 10 CFR Parts 30, 34, 40 and 71 amendments (77 FR 39899), that were 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 were due for Agreement State adoption by October 23, 2015.
- “Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions,” 10 CFR Parts 30, 40 and 70 amendments (78 FR 32310), that were due for Agreement State adoption by August 27, 2016.
- “Domestic Licensing of Special Nuclear Material – Written Reports and Clarifying Amendments,” 10 CFR Part 70 amendment (79 FR 57721 and 80 FR 143), that was due for Agreement State adoption by January 26, 2018.
- “Safeguards Information – Modified Handling Categorization, Change for Materials Facilities,” 10 CFR Parts 30, 37, 73 and 150 amendments (79 FR 58664 and 80 FR 3865), that were due for Agreement State adoption by January 28, 2018.
- “Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements,” 10 CFR Part 71 amendment (80 FR 33987), that will be due for Agreement State adoption by July 13, 2018.
- “Miscellaneous Corrections,” 10 CFR Parts 37 and 40 amendments (80 FR 45841), that will be due for Agreement State adoption by September 2, 2018.
- “Miscellaneous Corrections,” 10 CFR Parts 19, 20, 30, 32, 37, 40, 61, 70, 71, and 150 amendments (80 FR 74974), that will be due for Agreement State adoption by December 31, 2018.

State Initiatives

The Program reported the most significant initiative undertaken was the reorganization and transition from the Arizona Radiation Regulatory Agency to the Arizona Department of Health Services.

NRC Initiatives

Some of the current NRC initiatives that were discussed with the program are noted below:

- NRC recently provided a SECY paper on Staff's Evaluation of the NRC's Patient Release Program to the Commission.
- NRC staff is developing an Information SECY paper to the Commission that includes a review of Emerging Medical Technologies developed under 10 CFR Part 35.1000.
- NRC's efforts to finalize the NUREG-1556 volumes.
- Establishment of the General License Re-Evaluation Working Group which will perform an evaluation of the existing general license program to ensure that it provides for the protection of public health and safety in the current environment.
- GAO audit of Part 37 effectiveness to evaluate both NRC and Agreement State implementation of the rule.
- NRC's evaluation of cybersecurity for materials which determined that no rule changes were warranted. NRC is developing an Information Notice to communicate effective practices.
- An update on both Vermont's and Wyoming's efforts to become Agreement States.
- The Management Directive 5.6, working group is addressing and incorporating comments. It's expected to issue the Management Directive in fall of 2018.
- Management Directive 5.9, "Adequacy and Compatibility of Program Elements for Agreement State Programs." – expect to issue late spring 2018
- Management Directive /Handbook 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)" - currently addressing comments – expect to issue fall of 2018.
- Management Directive 5.9, "Adequacy and Compatibility of Program Elements for Agreement State Programs." – expect to issue late spring 2018

CONCLUSIONS:

The Arizona Agreement State Program is a well-managed, effective and vital part of the Arizona Department of Health Services. The Bureau continues to effectively manage its licensing and

inspection activities and is responding to incidents and allegations as appropriate. Their recent transition from the Arizona Radiation Regulatory Agency to the Arizona Department of Health Services has not affected their ability to protect public health and safety in the State of Arizona. NRC staff recommends that the next IMPEP review be conducted as scheduled in 2020.