

August 31, 2007

Mr. Dennis Burke
Chief of Staff
Policy Office of the Governor
1700 West Washington
Phoenix, AZ 85007

Dear Mr. Burke:

As the Chair of the Management Review Board (MRB) and on behalf of my fellow members of the MRB, I am writing to inform you of the results of a periodic meeting held on March 1, 2007, between the U.S. Nuclear Regulatory Commission (NRC) and the Arizona Radiation Regulatory Agency (the Agency). Periodic meetings are held to enable the NRC and Agreement State programs to remain knowledgeable of each other's program and to conduct planning for the next Integrated Materials Performance Evaluation Program (IMPEP) review. The NRC also uses the periodic meetings to gather important performance information and to identify performance weaknesses before they escalate into serious problems.

The MRB met on July 19, 2007, to discuss the results and potential performance concerns identified during the March 1, 2007, periodic meeting. I have enclosed a copy of the March 21, 2007, letter to Mr. Aubrey Godwin, Director of the Agency, summarizing the results of the periodic meeting. Highlights of the concerns discussed by the MRB are presented below.

As noted during the 2006 IMPEP review, the Agency is experiencing difficulty in retaining qualified staff. Newer staff members are leaving the Agency for higher-paying jobs shortly after becoming qualified to independently perform inspections and/or licensing actions. The Agency is also contending with a workforce in which a number of experienced staff currently are or will be eligible for retirement in the near future. The combination of retirements and departures for higher-paying jobs will cause knowledge transfer issues within the Agency.

The Agency has been fortunate to be able to fill vacancies in a timely manner; however, the low salaries offered by the Agency limits the number of applicants with previous radiation protection experience. Hiring individuals with limited radiation protection experience requires providing training and, therefore, funding to help these individuals thrive in the highly technical field of radiation protection. An individual with limited radiation protection experience may take 2 years or longer to become fully qualified to independently perform inspections and licensing actions. Moreover, to address regulatory issues associated with rapidly changing technologies, especially in the medical field, an inspector or license reviewer will require training throughout his or her career. Based on discussions with the Agency Director, it is my understanding that training funds for new staff are only provided for the individual's first year of employment.

The Agency's difficulty with recruiting and retaining qualified staff is affecting performance in another area of the program, the timeliness of inspections. This issue was also previously noted during the 2006 IMPEP review. Although the Agency has been able to eliminate the backlog of overdue high-risk inspections, the number of overdue medium-risk inspections has increased greatly as a result of the redirection of resources to complete the high-risk inspections. The enclosed periodic meeting summary indicates that 187 inspections of medium-risk (Priority 2-3) licensees were overdue at the time of the meeting. To put that number into perspective, the Agency regulates approximately 380 radioactive material licensees.

The MRB noted that the Agency has done a commendable job in ensuring public health and safety are adequately protected with the identified staffing concern. As a result, the NRC does not believe that there are safety significant issues at any of the facilities regulated by the Agency. The Agency currently estimates that it will need at least 3 years to completely eliminate the overdue inspection backlog. This is due in large part to the current trend in staff turnover. With a stable staffing level, the Agency should be able to eliminate the backlog in less time. If the number of qualified inspectors does not stabilize in the near future, the Agency's estimate of 3 years may be unrealistic.

As a result of the findings during the periodic meeting, the NRC will conduct a full IMPEP review of the Arizona Agreement State Program during February 2008. Typically, IMPEP reviews take place approximately 4 years apart; however, because of the staffing concerns, the MRB unanimously agreed to exercise its authority to shorten the interval between the reviews. Additionally, the NRC is considering an Action Plan for ways to assist the Agency in addressing some of the staffing issues.

Your support in helping to ensure that the Arizona Agreement State Program has the necessary resources and support to manage an effective program is crucial. I want to assure you that the NRC supports the objectives of the Arizona Agreement State Program and will continue to work closely with your program. We appreciate your commitment to this effort.

Sincerely,

/RA/

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

Enclosure:
Periodic Meeting Summary for Arizona
dated March 21, 2007

cc: Aubrey V. Godwin, Director
Arizona Radiation Regulatory Agency

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/RA/

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

Enclosure:
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dated March 21, 2007

cc: Aubrey V. Godwin, Director
Arizona Radiation Regulatory Agency

DISTRIBUTION: EDATS: FSME-2007-0019
See next page.

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Letter to D. Burke from M. J. Virgilio dated August 31, 2007

SUBJECT: PERIODIC MEETING SUMMARY FOR ARIZONA DATED MARCH 21, 2007

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

March 21, 2007

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

Dear Mr. Godwin:

A periodic meeting with Arizona was held on March 1, 2007. The purpose of this meeting was to review and discuss the status of Arizona's Agreement State Program. The NRC was represented by me and Randy Erickson from NRC's Region IV office.

I have completed and enclosed a general meeting summary, including any specific actions resulting from the discussions.

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) 860-8116 or e-mail MLM1@NRC.GOV to discuss your concerns.

Sincerely,

/RA/

Linda McLean
Regional State Agreements Officer

Enclosure:
As stated

cc w/encl
Janet Schlueter, Director

Enclosure

PERIODIC MEETING SUMMARY FOR ARIZONA

DATE OF MEETING: March 1, 2007

ATTENDEES:

State	NRC
Aubrey Godwin, Director William Wright, Program Manager	Linda McLean, Regional State Agreements Officer Randy Erickson, Regional State Agreements Officer

DISCUSSION:

The Arizona Radiation Regulatory Agency (Agency) is a cabinet-level agency. The Director is appointed by the Governor. The Agency is responsible for the conduct of a statewide radiological health and safety program, and consists of five program areas: Radioactive Materials/Non-Ionizing Radiation (RAM), X-ray Compliance (X-ray), Radiation Measurements Laboratory (Lab), Emergency Response, and The Medical Radiologic Technology Board of Examiners. The Agency has approximately 380 material licensees.

The last Integrated Materials Performance Evaluation Program (IMPEP) Review was conducted during the week of February 6-10, 2006. the review team found Arizona's performance to be unsatisfactory for the performance indicator, Status of Materials Inspection Program; satisfactory but needs improvement for the performance indicator, Technical Staffing and Training; and satisfactory for the five remaining performance indicators. Accordingly, the review team recommended and the MRB agreed in finding the Arizona Agreement State Program to be adequate, but needs improvement, and compatible with NRC's program.

Because of the finding of unsatisfactory for the performance indicator, Status of Materials Inspection Program, the MRB expressed concern that without adequate staffing levels and proper knowledge transfer the Agency will continue to get further behind in inspections and, over time, the quality of inspections will decline. The MRB stated that adequate funding and support is essential to maintenance of a healthy program, which can ensure that staffing levels are appropriate to guarantee inspections of radioactive material licensees are completed in a timely manner and that the existing backlog be diminished. Adequate funding will also ensure that new staff will be trained and qualified in a reasonable time frame and that high quality staff will be attracted and retained.

Status of State's actions to address all open previous IMPEP review findings and/or open recommendations:

1. The review team recommends that the Agency develop and implement a staffing plan to fill the current vacancy, meet growing Program needs and maintain long-term stability.

Current Status: Four positions (two x-ray, one materials, one laboratory) have been filled since the last review, and the positions are funded. Four additional positions have been requested for the FY 2008 - 2009 budget (two x-ray, two materials). The Program Manager (William Wright) is retiring at the end of June 2007, and another senior staff will retire at the end of 2007. The Agency is facing considerable staffing issues, both

present and future. The Agency is experiencing difficulty in qualifying and retaining staff. The Agency's low starting salaries have made it difficult to recruit and retain individuals with radiation protection experience.

2. The review team recommends that the Agency take appropriate measures to conduct core inspections (including initial inspections) in accordance with the inspection priority schedule in MC 2800, and conduct reciprocity inspections in accordance with MC 1220.

Current Status: The 2006 IMPEP team found that there were a significant number of overdue core inspections and core inspections completed overdue. Also, inspection of reciprocity licensees were not being conducted as required. Since that review, the Agency has made an effort to prioritize inspections based on their inspection frequency. The plan is to first inspect broad medical, industrial radiography, nuclear pharmacy, distribution licensees, and initial inspections, and to complete the 13 increased controls inspections. The Agency has been successful in completing these types of licenses, and also all of the increased controls inspections have been completed. However, approximately 187 priority 2-3 license inspections are overdue.

The Agency has initiated actions to seek programming assistance from the Arizona Government Information Technology Agency to enable them to improve the program database. One of the main purposes for this measure is to be able to track and conduct core inspections (including initial inspection) in accordance with the inspection priority schedule in MC 2800, and to perform reciprocity inspections in accordance with MC 1220. The new database may be completed by June 2007.

3. The review team recommends that the Agency review all Arizona licenses to ascertain if they require financial assurance, and take appropriate action on each affected license to ensure that all licenses meet the State's financial assurance requirements.

Current Status: The Agency determined that 20 licensees require financial assurance (14 have been completed). The remainder of the licenses will include financial assurance commitments by the end of 2007.

4. The review team recommends that the Agency develop a process that allows for the adoption of NRC regulations within the three-year time frame.

Current Status: The State Regulation Status (SRS) data sheet was reviewed. It was noted that several proposed regulations have been reviewed by the NRC, but the final rules have not been submitted to the NRC for review. Additionally, several final rules reviewed by the NRC had comments to be incorporated into the final promulgated regulation. It was requested that the Agency submit the proposed and final regulations to the NRC using FSME Procedure SA-201 as a guide.

The Agency is having some difficulty keeping up with the NRC regulation changes. For each regulation, the Agency must describe the effectiveness of the regulation and provide the statutory authority under which the regulation is issued. The Agency must also demonstrate that the regulation is consistent with other Agency regulations, and that the regulation is clear and understandable.

5. The review team recommends that the Agency develop and implement a process to ensure that during routine inspections the QA/QC requirements in the SS&D registry sheets are being implemented by the manufacturer.

Current Status: The Agency has added the QA/QC requirements in the SS&D registry sheets to the inspection form. This should ensure that during routine inspections the QA/QC requirements are reviewed for compliance.

Strengths and/or weaknesses of the State program as identified by the State or NRC including identification of actions that could diminish weaknesses:

- a. **Program Strengths:** During this review period there has been no turn-over of staff, and the program hired four additional staff members.
- b. **Program Weaknesses:** The Agency is experiencing difficulty in qualifying and retaining staff. The Agency's low starting salaries have made it difficult to recruit and retain individuals with radiation protection experience.

Feedback on NRC's program as identified by the State and including identification of any action that should be considered by NRC:

It was suggested that the NRC revise the SRS data sheet to make it more useful for the regulation writer. For example, the sheet should include an internet link to the new or changed regulation and to the Statements of Consideration.

The Agency stated that they support the use of global positioning systems for increased controls licensees (radiographers and portable gauges).

Status of State Program including: Topics were discussed in the first section of this report.

Event Reporting, including follow-up and closure information in NMED:

All events required to be reported into the NMED database have been submitted, and the records have been closed and completed when applicable.

Response to Incidents and Allegations:

No allegations were referred to the Agency during this review period.

Schedule for the next IMPEP review:

This will be determined during the special Management Review Board (MRB) meeting.