

ARIZONA HEIGHTENED OVERSIGHT CONFERENCE CALL  
AUGUST 9, 2011

<b>NRC Attendees</b>	<b>Arizona Attendees</b>
Randy Erickson, RSAO	Aubrey Godwin, Program Director
Lisa Dimmick, FSME	Brian Goretzki, Program Manager
Michelle Beardsley, FSME	
Rachel Browder, RSAO	

### **Summary**

During the week of March 29, 2010 – April 1, 2010, an IMPEP review team performed a follow-up review of the Arizona Agreement State Program (the Program), in part, to determine if the period of Heightened Oversight initiated on July 21, 2008 could be relaxed. During the review, the review team noted several improvements in the program, but also identified additional issues that needed programmatic attention. The review team acknowledged that while the Program made some improvements in problem areas, they had not yet demonstrated a period of sustained performance in any of these areas.

The review team also closed previous recommendations, opened new recommendations, and recommended to the Management Review Board (MRB) that the period of Heightened Oversight continue. On June 22, 2010, the MRB met and agreed with the review team's recommendations that the period of Heightened Oversight be extended for an additional two years, that a Periodic Meeting be held in one year, and that following submission of an acceptable revised Program Improvement Plan (the Plan), that bimonthly Heightened Oversight calls (call) with the Program would resume.

On September 7, 2010, the Program submitted their initial plan for NRC review (ML102510278). NRC staff concluded that the plan as submitted would not fully satisfy the recommendations identified during the April 2010 follow-up IMPEP review. NRC staff noted that two of the recommendations were not fully described in the Plan and that some of the tasks identified were not sufficiently detailed or comprehensive enough to address the associated recommendation, and that as written, were insufficient to ensure long-term sustainability. Additionally, one of the milestones was not identified for its associated recommendation.

NRC staff determined that the importance of resuming the calls outweighed the importance of first waiting for the Program to resubmit and receive approval of their Plan prior to call resumption; therefore, the initial call with the Program was held on October 21, 2010. The deficiencies noted in the Plan and the need for the Program to resubmit a revised Plan was stressed with both the Program Director and the Program Manager during the call. Specific NRC staff comments regarding the Plan as submitted were documented in the October 21, 2010 call summary (ML103200547). The Program was requested to resubmit a revised Plan by December 21, 2010.

On January 6, 2011, the Program submitted the revised Plan for review (ML110060248). It appeared to NRC staff that the Program did not expend sufficient effort to revise the Plan in order to create a complete and comprehensive document as few changes to the initial Plan were noted. Recommendations originally discussed with the Program and subsequently

identified in the October 21, 2010 call summary regarding full documentation of the original recommendations, expansion of the tasks and milestones to make them more comprehensive, and the need to discuss effective long term corrective actions were not addressed. NRC staff again concluded that the revised Plan as submitted would not fully satisfy the recommendations identified during the follow-up IMPEP review. Accordingly, staff requested that the revised Plan as submitted should be further revised and resubmitted by February 11, 2011.

It appeared to NRC staff that the Program was having difficulty developing an acceptable Plan, so after consultation with NRC management, on February 8, 2011, NRC staff electronically mailed an example plan to the Program. Subsequently on February 25, 2011, the Director of the Arizona Program electronically submitted a revised Plan (ML110750567) that NRC staff determined to meet the requirements of the Heightened Oversight process.

**Status of Recommendations from the 2010 IMPEP Review:**

1. *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.*

On October 21, 2010, the Program reported they were fully funded for FY11 and continues to operate under that budget. Budgets for FY12 and FY13 were submitted on August 31, 2010. It is uncertain at this time what the outcome of a legislative review will hold, but the Program is hopeful there will be no further cuts to their budget. At the time of the call, the Program stated that the State had a budget deficit of approximately \$800 million. In addition to that, some programs were required to return a sum total of approximately \$700 million to the treasury in an effort to fund two unrelated children's programs, but this effort is not anticipated to affect the Radiation Control Program. On November 9, 2010, during a subsequent call with the Program, the Program Manager stated that two referendums were on the November ballot to provide funding for the children's programs, and both were defeated. This will result in an overall State budget deficit of approximately \$1.5 billion. At the time of the November call, the Program had not experienced any negative effects from the shortfall.

The Program reported that while they have been given authorization to fill long standing vacancies, they have yet to permanently fill any of the vacant positions. Their plan is to first try and recruit from within the Program to fill those vacated positions. If they are not successful in that effort, they will post outside the Program. In an effort to keep up with inspections and licensing, they have cross trained some staff members who work in other parts of the Program to be able to assist with the inspection program. The Program reported they have been able to keep up with inspections.

On January 12, 2011, the Program reported that as of the date of the call, there has been no change regarding the budget and the budget shortfall. The legislature began the new session and the budget issues facing the State are on the agenda. The Program Director stated that he would notify NRC of legislative changes that will impact the Program. On January 18, 2011, the Program Director notified NRC by email that the Arizona Governor's proposed budget for FY12-13 had been released. The budget proposed many cuts across State government; however as written, the Radiation Control Program's budget would not be affected.

The Program also reported that following the October 2010 call, the Program Manager retired and they are now searching for a candidate to replace him. Also, in an effort to fill the other remaining vacancies in the face of a hiring freeze, they opened a solicitation of interest and one individual in another part of the Program will be transferring to the materials program. When this individual transfers into the Program and a replacement Program Manager is hired, the Program will still have one remaining vacancy which the Program Director doesn't believe he will be allowed to fill. He added that to date with their current staffing levels, and the occasional assistance from other parts of the program as needed, they have sufficient staffing to keep up with the current workload.

On March 16, 2011, the Program reported that the Arizona Governor's proposed budget was being debated in the legislature and no changes affecting the Program had been noted at the time of the call. However, the Program Director noted that the Arizona Senate had proposed a parallel budget proposal. The details of the submittal were unknown at the time of the call.

The Program also reported that they posted a solicitation of interest for the Program Manager's position and had received applications from four internal candidates. The selection process is continuing. If the selection of a Program Manager comes from the current RAM inspectors, then that individual will ultimately have to be replaced. Also, following the January 12, 2011 call, one person transferred into the RAM program from another part of the Program. The Program Manager also indicated that he's also lost three administrative staff and has been operating without a full complement of administrative staff for over 1.5 years. Lastly the Program Manager noted that he's been able to secure salary increases for three X-Ray inspectors and has hope that he may also be able to secure salary increases for others in the Program.

On May 23, 2011, the Program reported that the legislature approved the 2012 budget and on April 6, 2011, the Governor signed the budget into law. The budget maintained the Program's funding at current levels. The exception to that is the addition of 0.5 FTE paid for by the utility and also includes money for a new emergency response vehicle. The Program Director is uncertain at this time if he will be able to expand their emergency response capabilities due to the hiring freeze they are under.

The Program also reported that the Program Manager's position was filled on May 2, 2011. The individual selected came from within the Program. His former position will eventually need to be filled. The Program Director indicated that he was scheduled to meet with the Governor's office regarding filling empty positions, and hopefully will be allowed to fill some of their vacant positions. Furloughs for the program have ended; however, the salary savings that had been created by the furloughs will continue to be swept from, and absorbed by the Program. Some of the other budgetary issues facing the program include the revocation of the salary increases previously secured for the X-Ray inspectors, the loss of their 2.5 percent performance increases, loss of their cost of living adjustments, and no merit raises.

On August 9, 2011, the Program reported that they were now working on the 2013 and 2014 budgets. Proposed budgets are due by September 1, 2011. Through a staff reduction effort, the State has reduced staffing across the State by 12 percent which should make it easier to maintain their current budget levels. The Program Director continues to be uncertain about the Program's ability to fully staff during an emergency response situation.

The Program Director stated that due to a recent state-wide staff reduction effort resulting in a 12 percent reduction in staff, programs are now able to fill vacated positions for those individuals who were employed on July 1, 2011 and terminated after that date. Furloughs no longer are an issue. The Program also reported that the salaries of all employees have been reduced by 2.5 percent.

2. *The review team recommends that an Agency manager accompany each inspector, at least annually, to ensure quality and consistency in the inspection program.*

On October 21, 2010, the Program reported that in the six months since the follow-up review, they have only been able to perform one inspector accompaniment, with the remaining three tentatively scheduled to be completed by November 15, 2010. NRC questioned the lag time in the timely completion of the accompaniments given this was a recommendation on the previous review held in 2008. The Program indicated there were various reasons why these were not yet completed, but they believe they can get the rest completed by November 15, 2010. This continues to be an area where the Program has failed to demonstrate sustained performance.

On January 12, 2011, the Program reported that as of January 10, 2011, they had accompanied all four of the inspection staff; however, they had not yet fully completed the documentation. The Program Director reported that he was waiting on the inspection report from one of the inspectors. When he receives the report, reviews it for adequacy and finds it acceptable, they will then have completed four supervisory accompaniments in the nine months since the April 2010 IMPEP review. 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. NRC staff questioned this aggressive approach given that supervisory accompaniments have been a repetitive problem for the Program since first identified during the 2008 IMPEP review, and because the manager who previously performed the accompaniments is no longer with the Program. The Program Director stated that he believed it was possible and remains committed to the more aggressive supervisory accompaniment schedule.

On March 16, 2011, the Program reported that all accompaniments have been completed and they still plan to pursue a six month inspector accompaniment schedule.

On May 23, 2011, the Program reported that the new Program Manager will now be responsible for the inspector accompaniments. The Program indicated they plan to continue the six month accompaniment schedule, at least until sustained performance can be demonstrated.

On August 9, 2011, the Program indicated they are on track to complete accompaniments as scheduled. Accompaniments are split between the Program Director and the Program Manager. They still plan to continue the six month accompaniment schedule, at least until sustained performance can be demonstrated.

3. *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.*

On October 21, 2010, the Program reported they believe they have completed this recommendation. They stated that they have 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 Agency 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 staff.

4. *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.*

On October 21, 2010, the Program reported that they have completed a review of approximately 60 percent of licenses to determine if financial assurance applies to them. Financial assurance instruments will be obtained for those licensees who are found to require financial assurance. The Program estimates they will have completed this task by December 31, 2010.

On January 12, 2011, the Program reported they had now completed a review of all licenses to determine if financial assurance applies to them.

On May 23, 2011, the Program reported they are in the process of developing a guidance document to be used by all staff to ensure that evaluating licenses is completed appropriately. When the guidance is developed, the staff will be trained on how to use it.

On August 9, 2011, the Program reported they have completed this action. The guidance document has been completed and implemented. Staff has been individually trained on the requirements.

The next Heightened Oversight conference call will be scheduled for October 2011.

/RA/

Randy Erickson  
State Agreements Officer  
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Arizona Heightened Oversight  
Conference Call Summary

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