

May 2, 2013

MEMORANDUM TO: Michael F. Weber
Deputy Executive Director for Materials, Waste,
Research, State, Tribal, and Compliance Programs
Office of the Executive Director for Operations

Bradley W. Jones, Assistant General Counsel
for Reactor and Materials Rulemaking
Office of the General Counsel

Mark A. Satorius, Director
Office of Federal and State Materials
and Environmental Management Programs

Cynthia D. Pederson, Deputy Administrator
Region III

FROM: Michelle R. Beardsley, Health Physicist */RA K. Meyer for/*
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: MAY 16, 2013 SPECIAL MRB MEETING

A Special Management Review Board (MRB) meeting to discuss the results of the periodic meetings held with the Alabama, California and Arizona Agreement State Programs, has been scheduled for **Thursday May 16, 2013 from 1:00 p.m. to 4:00 p.m. ET, in One White Flint North, Room 4-B6**. The summaries for each of the meetings are enclosed (Enclosures 1, 2 and 3).

In accordance with Management Directive 5.6, the meeting is open to the public. The agenda for this meeting is enclosed (Enclosure 4).

If you have any questions or need additional information, please feel free to contact me at (610) 337-6942 or Michelle.Beardsley@nrc.gov.

Enclosures:

1. Alabama Summary Report
2. California Summary Report
3. Arizona Summary Report

cc w/ encl.: Bill Dundulis, Rhode Island
Organization of Agreement States
Liaison to the MRB

MRB Members

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
ALABAMA STATE DEPARTMENT OF PUBLIC HEALTH'S
OFFICE OF RADIATION CONTROL

DATE OF MEETING: February 20, 2013

Nuclear Regulatory Commission (NRC) Attendees	Alabama State Department of Public Health Attendees
Monica Orendi, Region I RSAO	James McNees, Director
Daniel Collins, Deputy Director, DNMS Region I	David Walter, Assistant Director
Lisa Dimmick, IMPEP Project Manager, Office of Federal and State Materials and Environmental Management Programs	David Turberville, Radiation Physicist Supervisor, Environmental Radioactivity and Special Projects
	Myron Riley, Supervisor, Radioactive Materials Inspection
	Neil Maryland, Supervisor, Radioactive Materials Licensing
	Cason Coan, Radiation Physicist Senior
	Roger Cleckler, Radiation Physicist

DISCUSSION:

During the 2010 Integrated Materials Performance Evaluation Program (IMPEP) review of the Alabama Agreement State Program (the Program), the review team found the State's performance satisfactory for all performance indicators reviewed. The review team made no recommendations. On July 19, 2010, the Management Review Board (MRB) met to consider the proposed final IMPEP report on the Alabama Agreement State Program. The MRB found the Program adequate to protect public health and safety and compatible with NRC's program. The MRB recognized that the 2010 review marked the fourth consecutive IMPEP review of the Program in which the program was found adequate to protect health and safety, compatible with the NRC's program, and satisfactory for all performance indicators reviewed. Based on the results of the IMPEP review, the review team recommended, and the MRB agreed, that the next full IMPEP review take place in four years and that a periodic meeting be held in approximately two years from the date of the November 2010 IMPEP.

On September 13 and October 5, 2010, the MRB reviewed and endorsed the recommendations of the IMPEP Self-Assessment Working Group report dated August 17, 2010. Recommendation 3 of the Working Group's report recommends that consistently high performing organizations that have two consecutive IMPEP reviews with findings of satisfactory on all performance indicators are recognized for its achievements. Alabama was identified as meeting the high standard for sustained performance and subsequently had its IMPEP review period extended to five years.

TOPICS COVERED DURING THE MEETING INCLUDED:Program Strengths

The Program noted several strengths. The Program charges 75 percent of NRC's fees which provides for a well-funded program. These fees are ear marked for the Radiation Control Program and placed into a dedicated fund. The Program has an experienced and well-trained staff. Only one staff person has been with the Program for less than five years resulting in a large institutional knowledge base for the Program. Camaraderie and open communication among the staff and between staff and management are also strengths of the Program. Last, the Program discussed access to NRC training courses as a strength. The Program utilizes the NRC training courses when available and believes that knowledge learned from these courses is a valuable tool for staff.

Program Weaknesses

Under strengths, the Program mentioned its very experienced staff. However this is also considered by the Program to be a weakness. There is a potential for several staff to retire in the next eight to ten years. The current director is planning on retiring before the next IMPEP after 38 years with the radiation control program. The Program also considers its large workload to be a weakness. In some circumstances preparatory time can be limited due to other incoming work items needing attention.

Feedback on the NRC's Program

The Program commented that both the overall relationship and communications with the NRC are good. In the past, it could take one to two weeks to get an answer to a question posed to the NRC staff and now the turnaround time is one to two days. The Program did mention that the NRC makes too many changes to its regulations, especially to regulations of high compatibility (compatibility categories A and B). Multiple regulation changes that occur each year can place a strain on Agreement State staff in not only the adoption of the changes but the implementation. The Program also expressed its appreciation for the NRC training classes but did mention that an increase in slots for Agreement State staff would be appreciated. Last, the Program staff discussed their fondness for the IMPEP. The Program feels that before IMPEP Agreement States were held to different standards and favoritism occurred. Since the institution of IMPEP, the review of Agreement State programs has been very fair and consistent.

Agreement State Program Staffing and Training

The Program currently consists of seven staff, which includes the Program Director and Assistant Director, comprising approximately 5.75 full time equivalents (FTE). Currently the Program has a request in to obtain an additional 0.5 FTE which would be used to help with radioactive materials licensing and inspection. No staff turnover has occurred since the 2010 IMPEP review and there are no vacancies in the Program. One technical staff is still in the qualification process but is qualified to do all inspection types except for Increased Controls inspections. Support for staff training exists in the Program. Program staff has attended the NRC and other training courses. The Program also does in house training and has junior staff accompany senior staff to aid in the learning process. A documented training plan for technical

staff exists and has not been changed since the 2010 IMPEP which determined that is was consistent with the requirements in the NRC/Organization of Agreement States Training Working Group Report and NRC's Inspection Manual Chapter 1246, "Formal Qualification Programs in the Nuclear Material Safety and Safeguards Program Area."

Organization

The Alabama Agreement State Program is located in the Office of Radiation Control which is located within the Alabama Department of Public Health.

Program Budget/Funding

The Program is 100 percent fee funded. Alabama charges 75 percent of NRC fees. The funds are placed into a dedicated fund for the Radioactive Materials Program. Although the money is placed into a dedicated fund, the Program has a \$100,000 cap on money allowed to be carried over to the next fiscal year. Any money in excess of the cap goes into the general fund. Despite being 100 percent fee funded, the Program still needs to obtain approval to fill positions, travel outside the State, and order certain supplies.

Inspection and Licensing Programs

All but one of the Program's inspection frequencies are performed at the same as the NRC's. Alabama inspects nuclear pharmacies at a more frequent interval than the NRC. At the time of the periodic meeting, the Program reported it had no overdue inspections and had performed no inspections overdue by more than 25 percent of the inspection frequency since the last IMPEP review. The Program had performed one initial inspection greater than one year after the license issuance. The Program had performed 346 total inspections (all priorities) since the last IMPEP review. Alabama allows for reciprocity for 30 days in any calendar year. After 30 days the entity must obtain an Alabama license. The Program indicated performing reciprocity inspections on twenty percent of candidate licensees can prove to be a challenge for the program. In calendar year 2012, the Program performed no reciprocity inspections of the 49 priority 1, 2, and 3 licensee reciprocity requests received. In calendar year 2013, the Program has performed two inspections of the 17 priority 1, 2, and 3 licensee reciprocity requests received. The Program issues inspection reports to licensees within thirty days of the inspection. All inspectors have been accompanied annually since the last IMPEP.

The Program currently has approximately 415 specific licenses. The Program completes between 450 and 500 licensing actions each fiscal year. The Program hand delivers all new licenses. All licensing actions are reviewed by one management level higher than the individual performing the action.

Regulations and Legislative Changes

The Program is subject to sunset requirements. The regulations and program are reviewed by a committee in the legislature on an approximately four year basis. The Program was last reviewed in 2009. The review also involves letters to regulated entities from the committee asking about the program. When the Program comes under review the possibility always exists for the legislature to sunset the program however this is not likely due to the good working

relationship with the licensees. At the time of the periodic meeting, the Program had no overdue regulations due for adoption. The rulemaking process generally takes approximately 12 months and expedited or emergency rulemaking can be completed in as little as five to six months. The Program is currently working on addressing outstanding comments on final regulations and adopting regulations coming due for adoption. There was one legislative change since the 2010 IMPEP review which affected the Program. The Bill involved licenses in the name of a person and not in the name of a company and stated that they would need to show that the person named on the license is in the country legally.

Event Reporting

The Program had 46 events in 2010, 51 events in 2011, 79 events in 2012 and three events so far in 2013. These events include radioactive material, x-ray, and scrap. Follow-up information for all events reported by the Program are included in the State's NMED entries. It was noted that there were two NMED entries that are listed as the record being complete but have not yet been closed by the Program. This was brought to the Program's attention during the periodic meeting and the Program staff stated that they would either update the items or close the records.

Response to Incidents and Allegations

The Program continues to be sensitive to notifications of incidents and allegations. Incidents are quickly reviewed for their effect on public health and safety. Staff is dispatched to perform onsite investigations when necessary. The Program is aware of the need to maintain an effective response to incidents and allegations. NRC referred one allegation to the Program and the Program directly received ten additional allegations between January 2010 and January 2013.

Sealed Source and Device Evaluation

Although the Program has authority to conduct sealed source and device evaluations for byproduct, source, and certain nuclear materials, this indicator was not reviewed during the 2010 IMPEP review since the Program has no licensees that fall under this indicator and therefore did not conduct any evaluations during that review period. The Program has not conducted any evaluations since the 2010 IMPEP and does not expect any actions during this IMPEP review period.

Low-Level Radioactive Waste Disposal Program

In 1981, the NRC amended its Policy Statement, "Criteria for Guidance of States and NRC in Discontinuance of NRC Authority and Assumption Thereof by States Through Agreement," to allow a State to seek an amendment for the regulation of low-level radioactive waste as a separate category. Those States with existing Agreements prior to 1981 were determined to have continued disposal authority without the need of an amendment. Although the Program has authority to regulate a low level waste facility, the NRC has not required States to have a program for licensing a disposal facility until such time as the State has been designated as a host State for a disposal facility. There are no plans for a commercial low-level radioactive waste disposal facility in Alabama.

Emerging Technologies

The Program has licensees using radium-223 as part of an investigational new drug protocol.

State's Mechanisms to Evaluate Performance

The Program has used the IMPEP questionnaire in between IMPEP reviews to evaluate program performance. The Office of Radiation Control has a supervisors retreat every year to discuss performance and brain storm ideas to improve performance. The most recent retreat was held in January 2013. The Program has monthly supervisor meetings and weekly staff meetings.

CONCLUSIONS:

The Alabama Radioactive Materials Program continues to be an effective well maintained Agreement State program with an experienced and well-trained staff. There are no vacancies in the Program at this time. The Program is effectively managing its licensing and inspection activities.

NRC staff recommends that the next IMPEP review should be conducted as scheduled in fiscal year 2015.

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR THE
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH

DATE OF MEETING: JANUARY 24, 2013

NRC Attendees	California Attendees
Randy Erickson, SAO	Steve Woods, Division Chief
Anton Vogel, RIV	Gonzalo Perez, Branch Chief
Linda Gersey, SAO	Steve Hsu, Senior Health Physicist
Janine Katanic, FSME	John Fassell, Senior Health Physicist
	Jerry Hensley, Senior Health Physicist
	Robert Greger, Senior Health Physicist
	Phillip Scott, Health Physicist
	Ron Rogus, Health Physicist
	Ira Schneider, Health Physicist
	Brandy Pena, Health Program Specialist

DISCUSSION:

The California Agreement State program is administered by the Radiologic Health Branch (the Branch), which is located within the Division of Food, Drug, and Radiation Safety (the Division). The Division is part of the Department of Public Health (the Department). The previous IMPEP review was conducted the week of October 17-21, 2011.

At the conclusion of the review, the team found California's performance to be unsatisfactory for the indicator, Compatibility Requirements, and satisfactory for the remaining performance indicators reviewed. The review team also modified one recommendation from the 2008 IMPEP review regarding the timely promulgation of regulations.

Accordingly, the review team recommended, and the MRB agreed, that the California Agreement State program was adequate to protect public health and safety, but not compatible with NRC's program, and that the period of Monitoring currently in place for California be continued until significant progress was made in the regulation promulgation process.

Lastly, the review team also recommended that a Periodic Meeting be held one year following the MRB, that a second Periodic Meeting take place in approximately 2.5 years, and that the next IMPEP review take place in approximately four years.

The status of the one remaining recommendation from the 2011 California final IMPEP report is summarized below.

- The review team recommends that the State develop and implement a detailed action plan that fully documents actions, tasks, and milestones associated with each regulation package, to better track adoption of required regulations in accordance with the current NRC policy on adequacy and compatibility. (Section 4.1.2)

Status: Immediately following the October 2011 IMPEP review, the Branch developed a detailed action plan to track the progress of regulation packages through the system. Once developed, they began using this document to track regulation packages and where they were in process.

During the first Monitoring call in May 2012, the Branch reported they were making changes to the manner in which they processed regulations. They planned to move from their long standing practice of processing rule packages by "Parts", such as Part 20 or Part 35, to a method that would parallel NRC's adoption process. The Branch believed this change would improve efficiency and help in the elimination of their long standing regulation backlog. Branch managers indicated they would also be adding staff in an effort to eliminate the backlog.

During the most recent Monitoring call with the Branch in November 2012, the Branch reported that they hired two additional staff members to assist in the development of California regulations. They reported they also have an Attorney assigned to also assist with regulation development. The Branch also noted that all but two overdue regulations have been completed and were entered into the Department's internal regulation approval process in Department Regulation Package DPH11-024.

Program Strengths: The California program is a large and busy program with a highly motivated staff that at the time of the meeting had responsibility for approximately 1900 specific materials licensees. Management support to the Branch is outstanding and access to senior management is unencumbered. Senior managers have offices on the same floor as the Branch. The close physical location allows easy access to both Branch and Division management and allows managers to be more intimately involved in staff activities.

While the Branch has experienced minor staff losses, they have been very successful in filling positions with talented individuals. The Branch noted that recruitment is going well and they have been successful in hiring Health Physicists as well as individuals with physics majors. The Branch noted that the size and depth of their program allows for specialization and expertise. It also allows them to rapidly respond to issues such as Fukushima, contaminated products entering the State, decommissioning of contaminated sites and their SS&D program.

Program Weaknesses: The Branch also noted that while the size and depth of their program was a strength, they also identified it as a weakness in that the program is large, resulting in managerial challenges. The Branch also noted that while they are experiencing fewer problems with the unions, they are still challenged occasionally by union issues.

Feedback on NRC's Program:

The Branch presented the following as feedback on NRC's program:

Notifications announcing class acceptance to NRC classes is typically made eight weeks in advance of the class. However, lately those class notifications have often been made with shorter lead time. At eight weeks, it's difficult to get staff through the approval process, but when shorter lead times occur, it's very difficult to get staff into the classes. The Branch asks that NRC keep those class notifications at eight weeks.

The Branch stated that it would be very helpful if NRC could resolve jurisdictional issues involving the military use of radium and the Department of Defense.

The Branch asked if would send electronic mail with the subject matter clearly identified instead of identifiers such as ML numbers.

The Branch expressed appreciation for the help that Kathy Schneider provides to them.

Staffing and Training:

The Branch noted that seven technical staff left the program since the 2011 IMPEP review, and five of them have been replaced. The inspection program is authorized for 18 technical positions, all of which are filled. The licensing program is authorized for 21 technical positions. Two licensing reviewers left the program since the previous IMPEP review and those positions are currently vacant. And the technical support program which includes the regulations program is authorized for 13 positions. It now has two more positions than it had at the time of the 2011 IMPEP review. All those positions are currently filled.

The Branch also contracts with Los Angeles and San Diego counties for inspections in those areas. Each of those contracts is fully staffed now (with one additional inspector than at the time of the 2011 IMPEP).

Program Reorganizations:

The Branch has not been subject to reorganization since the last meeting.

Changes in Program Budget/Funding:

The Branch has not experienced any problems with budgeting or funding. The Branch is fee funded with the last fee increase in 2005. Furloughs have been occurring for several years; however, they are currently down to only one furlough day per month and furloughs will cease to exist on July 1, 2013. Those individuals that are at the top of their pay scales will receive a three percent increase in pay when furloughs terminate.

Materials Inspection Program:

The Branch reported that they currently have no overdue Priority 1-3 or initial 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 Branch noted that since the 2011 IMPEP review, they have performed 339 Priority 1-3 and initial inspections with only three being performed overdue. There continue to be some overdue Priority 5 inspections for the Los Angeles County office; however, the qualification of two additional inspectors in that office is expected to allow all overdue inspections to be eliminated during CY 2013.

Regulations and Legislative changes:

The Branch reported that two legislative changes affecting California's rulemaking process were adopted on January 1, 2013. These included SB 617 which added new provisions affecting policy development and economic impact analysis during the pre-notice stage of rulemaking. The second was SB 1099 requires in part, that agencies post on their internet website, regulations filed with the Secretary of State. Additionally, the Branch reported that they have proposed legislation to allow them to automatically adopt regulations by reference. The Branch is sending links to NRC so they can be reviewed.

During the 2011 IMPEP review, the Branch was found unsatisfactory for the indicator, Compatibility Requirements and found to be not compatible with NRC's program due to large number of overdue amendments. Monitoring was continued, and over the successive months, calls with the Branch were conducted to update NRC on the Branch's progress towards compatibility with NRC's program. The most recent Monitoring call with the Branch took place on November 8, 2012. During the Periodic Meeting, the Branch reported on the status of the 12 overdue amendments.

The incompatibility of legislation found in Section 115261 of California's "Health and Safety Code – Radiation Control Law" to NRC's 10 CFR Part 61 with regards to low-level radioactive waste disposal was also discussed with the Branch. This incompatibility was initially noted in an amendment submission to NRC on June 25, 2007. At that time, NRC notified the Branch that their statute was more restrictive than 10 CFR 61.41, and therefore did not meet the Compatibility "A" designation assigned to the rule. To date this compatibility issue has not been resolved. On November 3, 2010, the Branch notified NRC by telephone and email that they will be requesting additional time to resolve the issue due to the upcoming change in administration following the 2010 elections (ML103140535). This incompatibility has been discussed with the Branch during each successive IMPEP review, Periodic Meeting and Monitoring call. The Branch reports that this legislation is not supported by the current Governor and will not be addressed during his administration.

As noted in the Discussion section of this summary, a scheduled Monitoring meeting with the Branch was held in conjunction with the Periodic Meeting, and therefore this section includes additional specific details of the Branch's status of overdue amendments.

The following are regulation changes and adoptions that are currently open and will likely not be adopted in the near future:

- "Timeliness in Decommissioning of Materials Facilities," 10 CFR Parts 30, 40, and 70

amendments (59 FR 36026), that was due for Agreement State implementation on August 15, 1997.

This rule is tied to the amendment "Radiological Criteria for License Termination." This amendment remains open.

- "Radiological Criteria for License Termination," 10 CFR Parts 20, 30, 40, and 70 amendments (62 FR 39057), that was due for Agreement State implementation on August 20, 2000.

The 10 CFR Part 20 portion of the regulation was adopted and then challenged in State court by "The Committee to Bridge the Gap, et al." The challenge was successful, and the "Radiological Criteria for License Termination" portion of the regulation was repealed on August 8, 2002. The Branch is currently terminating licenses on a case-by-case basis. This amendment remains open.

The following are regulation changes and adoptions contained in Department Regulation Package DPH11-024, which have left the Branch and have entered the Department's internal regulation approval process:

- "Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations," 10 CFR Parts 30, 34, 71 and 150 amendments (62 FR 28947) that was due for Agreement State implementation on June 27, 2000.
- "Minor Corrections, Clarifying Changes, and a Minor Policy Change," 10 CFR Parts 20, 32, 35, 36, and 39 amendments (63 FR 39477 and 63 FR 45393), that was due for Agreement State implementation on October 26, 2001.
- "Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material," 10 CFR Part 30, 31, and 32 amendments (65 FR 79162), that was due for Agreement State implementation on February 16, 2004.
- "Medical Use of Byproduct Material," 10 CFR Parts 20, 32, and 35 amendments (67 FR 20249), that was due for Agreement State implementation on October 24, 2005.
- "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 implementation on 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 implementation 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 implementation by October 29, 2010.
- "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 States implementation by December 17, 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 implementation by November 30, 2010.
- “Medical Use of Byproduct Material – Authorized User Clarification,” 10 CFR Part 35 amendment (74 FR 33901), that is due for Agreement State implementation by September 28, 2012.
- “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 implementation by October 23, 2015.

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

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

From approximately November 1, 2011 to the date of the meeting, 116 events were reported to the Branch with eventual entry into NMED. Sixty six of those were reportable events. For those 66 events, NMED records are complete for 61 of them and are closed for 41 of them.

Response to incidents and allegations.

The Branch continues to be sensitive to notifications of incidents and allegations. Incidents are quickly 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. The Branch has taken the position that if they demonstrate responsiveness to incidents and allegations, no matter how trivial they might be, licensees and individuals will realize that reporting incidents and allegations should be important to them as well.

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

The Branch continues to process allegations as they are received. In addition to one allegation received directly by the Branch since the 2011 IMPEP review, NRC also referred 15 allegations to the Branch. Eight of the allegations remain open and are being processed. All of the allegations reviewed were appropriately closed, and appropriate parties were notified of the actions taken. The Branch continues to be sensitive to issues of identity protection regarding alleged.

The State has a Freedom of Information Act- equivalent law, the Public Records Act. The Branch stated that alleged's identities are adequately protected.

Significant events and generic implications.

While the Branch noted the following as examples of significant events:

- National coordination of PetCo contaminated dog bowls
- Fukushima debris expected to arrive in California this year
- Identification and follow-up of Bed, Bath and Beyond contaminated products

Current State Initiatives.

The Branch noted the following as examples of current state initiatives:

- TENORM, excluding 11.e(3) byproduct material
- Legislation on the use of radioactive materials for formation fracturing in the oil and gas industry
- General License review for Increased Controls quantities
- Legislative proposal is pending for automatic adoption of NRC regulations

Emerging Technologies.

The Branch noted the following as examples of emerging technologies:

- MASEP Infini gamma knife

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

The Branch noted the following as examples of large, complicated, or unusual authorizations

- Petco Do-60 dog bowls

- Whitaker-Bermite (clean up of DU testing at an unlicensed facility)
- Viktor Bene Bakery (formerly licensed NRC site)
- Magnesium Allow Products (formerly licensed NRC site)
- Proposed SNM transfer from NRC to CA at GE-Hitachi
- Mare Island
- Hunters Point
- McClellan (including onsite RCRA facility)

State's mechanisms to evaluate performance.

The Branch noted the following as examples of mechanisms to evaluate performance

- Ongoing SPSU audits to verify correctness of the RAM database
- QA audits of selected activities
- Due inspection tracking/status reports
- Overdue inspection tracking/status reports
- Greater than 30 days to issue inspection letter tracking/status reports
- Greater than 90 days to close inspection tracking/status reports
- Reciprocity inspection tracking/status reports
- NRC allegation tracking
- Event tracking
- License action tracking
- Radioactive waste tracking
- General License database
- License database
- Delinquent bill (potential MIA licensee) tracking
- Inspector accompaniments tracking

Current NRC initiatives:

Several NRC initiatives were discussed with the Branch including the status of Part 37 and the NUREG 1556 series. The status of changes to the medical Inspection Procedures as well as working groups were discussed with the Branch. The status of several of the most recent FSME letters was also discussed.

Schedule for the next IMPEP review:

It is recommended that a second Periodic Meeting be held as scheduled in July 2014 and that the next IMPEP review be held as scheduled in October 2015. Additionally, it is recommended that the period of Monitoring be continued.

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 health 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 3

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.

**Agenda for Management Review Board Meeting
May 16, 2013 1:00 p.m. – 4:00 p.m. ET, O-4B6**

1. Announcement of Public Meeting to all attendees and request for identification of any members of the public participating in this meeting.
2. MRB Chair convenes meeting. Introduction of MRB members, NRC staff members, State representatives, and other participants.
3. Discussion of Periodic Meetings:
 - a. Alabama Department of Public Health
(February 20, 2013) – ML13080A394 – Orendi / Collins / Dimmick
 - b. California Department of Health Services
(January 24, 2012) – ML13057A296 – Erickson / Vogel / Katanic / Gersey
 - c. Arizona Radiation Regulatory Agency
(February 12, 2013) – ML12323A005 – Erickson / Campbell / Katanic / Gersey
4. Adjournment

Invitees:	Michael Weber, DEDMRT	Brian McDermott, FSME
	Bradley Jones, OGC	Pamela Henderson, FSME
	Mark Satorius, FSME	Duncan White, FSME
	Cynthia Pederson, Region III	Lisa Dimmick, FSME
	Bill Dundulis, RI	Karen Meyer, FSME
	Monica Orendi, Region I/RSOA	Jack Foster, OEDO
	Michelle Beardsley, FSME	Raymond Lorson, Region I
	Randy Erickson, Region IV/RSOA	Daniel Collins, Region I
	Janine Katanic, FSME	Anton Vogel, RIV
	James McNees, AL	Vivian Campbell, RIV
	Aubrey Godwin, AZ	Linda Gersey, RIV
	Gonzalo Perez, CA	