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Sheri Minnick
Regional State Agreements Officer
Division of Nuclear Materials Safety
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406-1415

Dear Ms. Minnick:

The Arizona Radiation Regulatory Agency (ARRA) appreciates the opportunity to review and comment on the draft IMPEP report. We recognize the significance of the periodic reviews of Arizona Agreement State program by the Nuclear Regulatory Commission (NRC) as it helps guide our efforts to continue improving the Department's programs.

The mission of the ARRA is to protect the health and safety of the citizens of State of Arizona from unnecessary radiation exposure from all natural and man-made sources. The Agency has worked hard and diligently implemented the recommendations provided to us by the previous IMPEP review. Generally, we agree with many of the recommendations made in the draft report, however, we differ on others and wish to clarify some of the findings and associated recommendations.

Below is our response to the draft recommendations as listed on page 17 of the IMPEP report.

Recommendation # 1:

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

Response:

We agree. As a point of clarification, the Agency has developed a staffing plan and a budgetary allocation designed to fill the current vacancies and help address employee turnover within the Agency. Based on the Agency-proposed plan of expenditures and staffing levels, the Executive Budget for the upcoming fiscal year (FY 2007) includes funding restoration for four positions. Additionally, on January 30, 2006, the Governor signed HB 2661 into law (Laws 2006, Chapter 1) to provide for a state employee salary increase averaging approximately 6.3 percent, which should also strengthen the Agency's retention efforts. The Agency will continue to work with the Executive and the Legislature to secure the resources needed to support its mission.

Recommendation # 2:

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

Response:

The finding identified by the IMPEP team is agreed to and the recommendation will be implemented.

As recognized by the review team, the Agency's inspection frequencies for each type of license were the same as those listed in NRC MC 2800 and that the preliminary findings of inspection reports were sent to the licensees within 30 days (generally 2-5 calendar days) of the inspection date. This is consistent and compliant with Title 41, Chapter 6, Article 1, Section 41-1009.

Presently, the Agency uses Microsoft Access database to maintain licensee inspection information, which can provide inspection history for each licensee. We have also initiated actions to seek programming assistance from the Arizona Government Information Technology Agency to enable the ARRA to improve the Program database. One of the main purposes for this measure is the ability to conduct core inspections (including initial inspection) in accordance with the inspection priority schedule in MC 2800, and perform reciprocity inspections in accordance with MC 1220.

Recommendation #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 license to ensure that all licenses meet the State's financial assurance requirements.

Response:

Although there are fewer licenses remaining to address this requirement than reported, the finding identified by the IMPEP team is legitimate and the Department agrees to correct it.

Presently, there are no more than three licensees that are outstanding to close this recommendation and the Agency will continue its efforts to fully address this matter. As reported by the review team, the ARRA has already completed a review of most of the licensees and made appropriated changes to ensure licenses meet the financial assurance requirements.

Recommendation #4:

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

Response:

The ARRA agrees that implementing changes to rules on a timely basis is appropriate. Currently, the Agency is required by State law to review its regulations every five years. As agreed by the review team, the Agency's rulemaking process is functioning and there have been no overdue regulations that have not been submitted within the rulemaking process.

The Agency agrees in principle to a three-year review adoption timeframe and will endeavor to meet this timeline. However, effective implementation of this measure will require the Agency meet all requirements of Arizona's substantial rulemaking process. It is uncertain as to how long it would take to fully close this recommendation.

Clearly, as stated in the draft report over the past ten years, the Agency has improved the timeliness for regulation adoption but will explore ways to develop a process that may allow adopting NRC regulations within a three-year time frame.

The Arizona adoption process is designed to encourage adequate time for public comment on each regulation. In addition to the adoption of NRC suggested regulation, we are required to review and resubmit for public input each regulation every five years. For example this year we have three separate five-year reviews of our regulations. Each of these requires a notice, a report, and if appropriate the opening of a docket, followed by the proposing of a rule, followed by a hearing and finally the adoption of the rule. Then the final rule is again published for another hearing by the Governor's Regulatory Review Council which, if they agree, the rule will be published by the Secretary of State as adopted. In addition we will have to follow the same process in adopting any rules we need to amend this year.

Recommendation #5:

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

Response:

The finding identified by the IMPEP team is agreed to and the recommendation will be implemented.

While product evaluations were found to be thorough, complete and adequately addressed the integrity of the products, the ARRA will continue its improvement and will provide a supplemental inspection sheet (s) for these inspections to document the actions that are implemented by the manufacturer and licensee.

The inclusion of our review will allow the reader of the report to come to a reasonable understanding regarding the status of these important programs. We appreciate the opportunity to have our comments incorporated into the final report.

Thank you again for the efforts of your staff in helping us continue to improve the performance of the Department's program.

Sincerely,

Aubrey V. Godwin, Director
Arizona Radiation Regulatory Agency