

ARIZONA HEIGHTENED OVERSIGHT CONFERENCE CALL  
JANUARY 10, 2012

<b>NRC Attendees</b>	<b>Arizona Attendees</b>
Randy Erickson, RSAO	Aubrey Godwin, Agency Director
Duncan White, FSME	Brian Goretzki, Program Manager
Rachel Browder, RSAO	
Janine Katanic, FSME	
Aaron McCraw, RIII	

### 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 Agency 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 Agency Director stated that he would notify NRC of legislative changes that will impact the Program. On January 18, 2011, the Agency 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 were 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 would be transferring to the materials program. When this individual transferred into the Program and a replacement Program Manager is hired, the Program would still have one remaining vacancy which the Agency Director didn't believe he will be allowed to fill. He added that 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 Agency 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 was continuing at that time. If the selection of a Program Manager came from the current RAM inspectors, then that individual would 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 had 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 had been able to secure salary increases for three X-Ray inspectors and had hope that he would 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 was the addition of 0.5 FTE paid for by the utility and also included money for a new emergency response vehicle. The Agency Director was uncertain if he would be able to expand their emergency response capabilities due to the hiring freeze.

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 Agency Director indicated that he was scheduled to meet with the Governor's office regarding filling empty positions, and hopefully would be allowed to fill some of their vacant positions. Furloughs for the program had ended; however, the salary savings that had been created by the furloughs would continue to be swept from, and absorbed by the Program. Some of the other budgetary issues facing the program included 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 working on the 2013 and 2014 budgets. Proposed budgets were due by September 1, 2011. Through a staff reduction effort, the State had reduced staffing across the State by 12 percent which should have made it easier

to maintain their current budget levels. The Agency Director continued to be uncertain about the Program's ability to fully staff during an emergency response situation.

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

On November 2, 2011, the Program reported that the Governor's office continues to work on the 2013 and 2014 budgets. They added that the Program's 2012 budget was fixed and was sufficient for the Program to meet their mission. The Program stated that as part of the budget process this year, they had been asked whether or not they had received any letters of concern regarding their ability to staff emergency response positions should an event occur at the Palo Verde facility unexpectedly. The Agency Director had previously stated that their ability to staff these positions would be limited due to staff shortages, but this was the first time he had been asked about it by his administration.

The Program had two vacancies in the materials program and they are uncertain when they would be able to fill that position; however, this was not a significant impact on their ability to keep up. While the State had previously used furloughs as a cost reduction, those were no longer in effect. However, staff salaries were reduced by 2.5 percent. No other monetary changes in salaries or retirement programs had been imposed on the staff as of the date of the call.

On January 10, 2012, the Program reported that the Governor's office still has not come out with a proposed budget for years 2013 and 2014. The Program has submitted a relatively flat budget and does not anticipate any significant cuts. They further reported that they have been able to appoint two new employees to their x-ray program. The materials program is operating short staffed with no new appointments anticipated in the near future.

- 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 Agency 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 Agency 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 Agency Director and the Program Manager. They still plan to continue the six month accompaniment schedule, at least until sustained performance can be demonstrated.

On November 2, 2011, the Program indicated they are on track to complete accompaniments as scheduled. The Program is currently in the planning stages of the second round of 2011 accompaniments which are split between the Agency Director and the Program Manager. They still plan to continue the six month accompaniment schedule, at least until sustained performance can be demonstrated.

On January 10, 2012, the Program reported they have completed the 2011 inspector accompaniments and are in the process of scheduling the first round of the 2012 inspector accompaniments. Accompaniments continue to be split between the Agency Director and the Program Manager. The current plan is to discontinue the twice per year accompaniment schedule after the March 2012 IMPEP review.

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.

On January 10, 2012, the Program reported that while they believed they had completed this recommendation prior to the August 2011 call, they are making additional changes to the processing of financial assurance documents. The Program believes that the process they have for bringing identified licensees into compliance with financial assurance requirements is not working as intended. Originally they identified all the licensees to whom financial assurance would apply. They then waited for these licensees to come in for an amendment, license renewal, or some other reason to open the license to address the financial assurance requirements. They determined that this wasn't working as anticipated and are now reaching out to the affected licensees (approximately 15-18 licensees) to ensure they have financial assurance instruments on file. Completion will be assessed during the 2012 IMPEP review.

The next Heightened Oversight call will not be held in two months in lieu of the next IMPEP review to be held in March 2012.



Randy Erickson  
State Agreements Officer  
Region IV

Internal distribution via e-mail:

Roy Caniano, DNMS  
 Vivian Campbell, DNMS  
 Brian McDermott, FSME  
 Duncan White, FSME  
 Randy Erickson, SAO  
 Rachel Browder, SAO  
 Lisa Dimmick, FSME  
 Janine Katanic, FSME  
 Michelle Beardsley, FSME  
 Karen Meyer, FSME  
 Aaron McCraw, R-III

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