



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

**Heightened Oversight
California Conference Call Summary
Date of Call: March 24, 2005**

These minutes are presented in the same general order as the items were discussed in the meeting. The participants were as follows:

NRC Attendees

Paul Lohaus, Director, STP
Mark Shaffer, STP
Osiris Siurano, STP
Linda McLean, RSAO
John Zabko, STP

State of California Attendees

Kevin Reilly, Prevention Services
Ed Bailey, Radiologic Health Branch
Larry Barrett, Division of Food, Drug &
Radiation Safety
Gary Butner, CA-RHB
Barbara Hamrick, CA-RHB

NRC staff opened the call with a discussion of the apparent lack of progress to date as documented in the California Program Improvement Plan (Plan). The NRC staff expressed concern that since the California IMPEP in April 2004, and the issuance of the final Integrated Materials Performance Evaluation Program (IMPEP) in August 2004, the Plan documents little program activity to address the ten recommendations issued to California as part of the final IMPEP report. In addition, NRC staff inquired how the California Plan was being used as a management tool, given that the plan shows corrective action items labeled as "late", "no progress" or "apparently complete."

The California staff responded that corrective actions based on the IMPEP recommendations were proceeding in a manner commiserate with current staffing and budgetary constraints currently experienced by the program. The California staff assured the NRC that program improvements are being given the utmost management attention and maximum resource allocation that is possible at this time. The California staff pointed out two items that are contributing to the apparent lack of movement reflected by the Plan. The first item is the amount of time necessary to get the California fee rule in place, and thereby establishing a budgetary base to hire new staff.

The California staff gave a status update on the fee rule, summarized below. With the passing of the fee rule, the California program will be allowed to expand their staff by a projected nine positions, in addition to filling the 14 currently vacant positions. In addition, the fee rule adoption will provide the funds to support the corrective action programs. California staff also noted that a letter of support from the NRC during the public comment period for the fee rule would greatly help in adopting the final rule. NRC staff suggested this be brought up for consideration at the next scheduled Management Review Board (MRB) meeting. The second reason given by the California staff for the apparent lack of movement related by the Plan was that the plan had not been accurately updated to reflect actions that had occurred in the past month. These recent program actions are listed below in the discussion of the individual

recommendations. In addition to updating the Plan, the California staff agreed to add information to the plan so it more accurately reflects actions by the program to address the IMPEP recommendations.

The California staff indicated that they had recently lost two staff with the potential of losing one more in the near future.

The State also noted that, although it had been considered, there are no plans to turn back to the NRC the Agreement nor any parts of it.

Summary of status for each IMPEP recommendation:

Recommendation 1 - Program Resources

The California staff indicated that the fee rule is progressing in the quickest manner possible, as it was promulgated under “emergency rulemaking.” The staff indicated that the Governor’s office endorsed the rule and that it has been given favorable consideration at all review levels to date. The Staff indicated that the rule was at the second to last step before it could be implemented under emergency rule status. The rule is with the State Department of Finance for review. Following the Finance Department review, the rule will go to the Administrative Law Office where it will undergo a ten day review. Following that review, the rule will become effective under emergency rule status and the program will be able to charge the new fees. The staff estimates that they are one to two months away from this milestone. The rule will then have to go through the normal review process to become a permanent effective rule.

Recommendation 2 - Location/Security of licensed material

The California staff indicated that all of the licensees and material mentioned in the IMPEP report has been accounted for. The California staff indicated that they have initiated a program to better coordinate actions of the Licensing, and the Inspection, Enforcement, and Compliance sections to ensure that licensees and licensed material are accounted for throughout the life of the license. The NRC staff indicated that the Plan did not accurately reflect these actions. The California staff committed to supply information showing closure of all the investigations of licensees and materials mentioned in the IMPEP report for this indicator and update the Plan to reflect the current progress on the corrective actions for this indicator. In addition, the California staff committed to provide the results of the licensee review mentioned in section T-2A-M1 of the Plan and the status of any licensees or material found to be not accounted during this review.

Recommendation 3 - Prompt issuance of inspection reports

The California staff indicated that all but one region has showed improvement in the timeliness of issuance of inspection reports. In that one region, there has been staff loss which has resulted the region not meeting this goal. The staff indicated that the addition of staff in the future will help this region in accomplishing this goal. The NRC staff requested that the Plan reflect this progress and the California staff agreed to do so.

Recommendation 4 - Incident and Allegation files being used as a reference for license reviewers

The California staff indicated that there is now a database in place and a program has been created to allow review of incident and allegation files by license reviewers. The NRC staff asked if training of staff had been conducted on this new procedure. The California staff indicated that verbal instruction had been given instead of a formal training program. The NRC staff requested that the Plan be updated to reflect this progress, currently the Plan indicates "no progress" on this item.

Recommendation 5 - Closing of events reported to Nuclear Material Events Database (NMED)

The NRC staff indicated that the progress listed in the Plan was confusing and an exact status of the corrective actions could not be determined. It is indicated in the Plan that all but 16 of the 172 reportable events that were identified as needing to be closed have been closed. The staff indicated that they are still proceeding toward %100 closure.

Recommendation 6 - Prompt reporting of events to NMED

The NRC staff had no comments on this section of the plan.

Recommendation 7 - Tracking of incidents and allegations for proper disposition

The NRC staff noted that the actions indicated in California's response to the final IMPEP report do not match the status or actions listed in the Plan. The California staff indicated that lack of staff has caused corrective actions for this indicator to be delayed. The Plan does reflect this delay. The California staff did however indicate that all incident and allegations are being investigated properly at this time. California agree to update the Plan.

Recommendation 8 - Adoption of NRC amendments

The NRC staff noted that progress had been showed in the adoption of three of the overdue amendments, however the majority of the overdue amendments showed no movement through California's review system. The program indicated that the rules were progressing in the State's normal time frame and that the rules are with the State's Office of Regulation. NRC staff asked if there was any way to accelerate the external office review of these rules. The California staff indicated that the emergency rule making associated with the fee rule was hampering any effort to accelerate these other rule packages.

Recommendation 9 - Develop a process for tracking/incorporating/evaluating SS&D defects and incidents for possible reevaluation of SS&D sheets.

NRC staff had no comments on this section of the plan.

Recommendation 10 - Reevaluation of the NOVA R&D model CINDI neutron device.

NRC staff had no comments on this section of the plan.

The next call was scheduled for May 26, 2005 at 4 PM (EST)