

ADAMS Document Data Entry Information

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CALIFORNIA MONITORING CONFERENCE CALL

NRC Attendees	California Attendees
Randy Erickson, RSAO	Gary Butner, Branch Chief
Linda McLean, RSAO	Gonzalo Perez, Senior Health Physicist
Andy Imboden, FSME	Phillip Scott, Health Physicist
William Rautzen, FSME	
Monica Orendi, FSME	

Summary

On February 17, 2009, NRC hosted the second Monitoring call with the California Program (the Program). The purpose of the call was to review the Program's progress in regards to completion of the one remaining recommendation initially identified during the April 2004 IMPEP review and again noted during followup reviews conducted in March 2006 and April 2008. That recommendation involved the Program's failure to adopt required regulations within three years following adoption by NRC.

During the initial Monitoring call on October 21, 2008, the Program reported their progress in regards to the adoption of the outstanding regulation packages. They identified the status of the regulations and where they were in the process. The Program also reported that the Department was considering changes to the way the proposed regulation review process is handled within the Department in an effort to better streamline it.

The Program reported during the February call that changes had been made to the regulation development process. The Department hired a consultant who reviewed the current process and who then recommended the Department establish teams for rule development. The Department adopted the consultant's recommendations. In January 2009, the Program requested a team be formed to work on the Program's backlogged regulations, and requested a team leader be assigned. As of the date of the call, no team leader had been named by the Department and movement on the regulations was currently on hold. The Program noted that a factor in the delay may be because team leaders, who are named from outside the Program, work in programs that are funded by general revenue when California is currently struggling financially.

Next contact with the Program will be on April 29, 2009. A Periodic Meeting will take place between NRC and the Program and the status of the regulations will be discussed at that time.

Discussion

NRC policy requires that Agreement States adopt certain equivalent regulations or legally binding requirements no later than 3 years after they become effective. The following amendments were found to be overdue at the time of the April 2008 review. The status for each amendment from the last review and the current status of each are noted below:

It should be noted that all Part 35 rules are in one rule package regardless of which amendment they are contained within.

- “Quality Management Program and Misadministrations,” 10 CFR Part 35 amendment (56 FR 34104), that was due for Agreement State implementation on January 27, 1995.

2008 IMPEP Status: Draft in the Branch.

October 2008 Status: Package was submitted to the Office of Regulations on July 10, 2008.

February 17, 2009 Status: No change in status.

- “Timeliness in Decommissioning of Materials Facilities,” 10 CFR Part 30, 40, and 70 amendments (59 FR 36026), that was due for Agreement State implementation on August 15, 1997.

2008 IMPEP Status: This rule is tied to the amendment “Radiological Criteria for License Termination.” See below.

October 2008 Status: No change in status.

February 17, 2009 Status: No change in status.

- “Medical Administration of Radiation and Radioactive Materials,” 10 CFR Part 20 and 35 amendments (60 FR 48623), that was due for Agreement State implementation on October 20, 1998.

2008 IMPEP Status: The 10 CFR Part 20 portion of this rule was adopted by the State on September 10, 1998. Draft package to address 10 CFR Part 35 portion in Branch.

October 2008 Status: Package submitted to the Office of Regulations on July 10, 2008.

February 17, 2009 Status: No change in status.

- “10 CFR Part 71: Compatibility with the International Atomic Energy Agency,” 10 CFR Part 71 amendment (60 FR 50248), that was due for Agreement State implementation on April 1, 1999.

2008 IMPEP Status: Package with California Health and Human Services.

October 2008 Status: Package is in the final phases and is expected to be effective on or about February 1, 2009.

February 17, 2009 Status: Needed concurrence with California Highway Patrol. Package had to go out for an additional 15 day comment period. Estimated effective date is now May 1, 2009.

- “Recognition of Agreement State Licenses in Areas under Exclusive Federal Jurisdiction within an Agreement State,” 10 CFR Part 150 amendment (62 FR 1662), that was due for Agreement State implementation on February 27, 2000.

2008 IMPEP Status: Package with California Office of Legal Services.

October 2008 Status: Submitted to the Office of Regulations on June 27, 2008.

February 17, 2009 Status: No change in status.

- “Criteria for the Release of Individuals Administered Radioactive Material,” 10 CFR Part 20 and 35 amendments (62 FR 4120), that was due for Agreement State implementation on May 29, 2000.

2008 IMPEP Status: The 10 CFR Part 20 portion of this rule was adopted by reference in 1998. Draft of the 10 CFR Part 35 portion in Branch.

October 2008 Status: Submitted to the Office of Regulations on July 10, 2008. Subpart E was not in the submittal.

February 17, 2009 Status: No change in status.

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

2008 IMPEP Status: 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. The Department is considering its options for addressing this regulatory issue.

October 2008 Status: No change in status.

February 17, 2009 Status: No change in status. Awaiting a decision by Governor's office.

- "Minor Corrections, Clarifying Changes, and a Minor Policy Change," 10 CFR Part 20, 35, and 36 amendments (63 FR 39777 and 63 FR 45393), that was due for Agreement State implementation on October 26, 2001.

2008 IMPEP Status: The 10 CFR Part 20 portion of this rule was adopted by reference in 1998. The 10 CFR Part 35 changes will be addressed as part of the Part 35 draft package that is with the Branch. The 10 CFR Part 36 portion was incorporated by reference to Federal regulations via license condition.

October 2008 Status: Submitted to the Office of Regulations on July 10, 2008.

February 17, 2009 Status: No change in status.

- "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.

2008 IMPEP Status: Package with California Office of Legal Services.

October 2008 Status: Submitted to the Office of Regulations on June 27, 2008.

February 17, 2009 Status: No change in status.

- "Medical Use of Byproduct Material," 10 CFR Part 20, 32, and 35 amendments (67 FR 20250), that was due for Agreement State implementation on October 24, 2005.

2008 IMPEP Status: Draft package in Branch.

October 2008 Status: Submitted to the Office of Regulations on July 10, 2008.

February 17, 2009 Status: No change in status.

- "Financial Assurance for Materials Licensees," 10 CFR Part 30, 40, and 70 amendments (68 FR 57327), that was due for Agreement State implementation on December 3, 2006.

2008 IMPEP Status: Package with California Health and Human Services.

October 2008 Status: Public comment period ends on October 24, 2008. Rule is expected to be effective in mid February 2009.

February 17, 2009 Status: Rule became effective on January 29, 2009. This amendment has been addressed.

- “Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments,” 10 CFR Part 71 amendment (69 FR 3697), that was due for Agreement State implementation on October 1, 2007.

2008 IMPEP Status: Package with California Health and Human Services.

October 2008 Status: Nearly complete. Rule is expected to be effective early February, 2009.

February 17, 2009 Status: Rule out for a 15 day comment period. Estimated effective date is May 1, 2009.

- “Medical Use of Byproduct Materials - Recognition of Specialty Boards - Part 35,” 10 CFR Part 35 amendment (70 FR 16336 and 71 FR 1926), that was due for Agreement State implementation on April 29, 2008.

2008 IMPEP Status: Draft package in Branch.

October 2008 Status: Submitted to the Office of Regulations on July 10, 2008.

February 17, 2009 Status: No change in status.

Note: Program is proposing to not be a reviewer of specialty boards and plans to refer individuals to NRC regulations or those of other Agreement States.

- “National Source Tracking System,” 10 CFR Part 20 amendment (71 FR 65865, 72 FR 59162), that is due for Agreement State implementation by January 31, 2009.

2008 IMPEP Status: Draft package in Branch.

October 2008 Status: Submitted to the Office of Regulations on October 23, 2008.

November 2008 Status: Received by NRC and currently being reviewed.

February 17, 2009 Status: Approved by NRC. Effective in the form of a license condition. This amendment has been addressed.

Conclusion

The California Program continues to place significant resources into the adoption of regulations and is committed to achieving full compatibility in this program area. At the time of the 2008 review NRC staff noted several regulations near completion and shortly after the review these regulations became effective. The Program has dedicated the resources necessary to continue forward and achieve full compatibility, and NRC staff believes that with a continued level of commitment they will be successful in their efforts.

Next contact with the Program will be on April 29, 2009. A Periodic Meeting will take place between NRC and the Program and the status of the regulations will be discussed at that time.

A handwritten signature in black ink, appearing to read "Randy Erickson". The signature is fluid and cursive, with the first name "Randy" being more prominent than the last name "Erickson".

Randy Erickson
Regional State Agreements Officer
Region IV

bcc (via e-mail distribution):
 Arthur Howell
 Chuck Cain
 Robert Lewis, FSME
 Terry Reis, FSME
 Duncan White, FSME
 Linda McLean
 Randy Erickson
 Aaron McCraw, FSME
 Janine Katanic, FSME
 William Rautzen, FSME
 Kathleen Schneider, FSME
 Monica Orendi, FSME

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