

## **ADAMS Document Data Entry Information**

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## CALIFORNIA MONITORING CONFERENCE CALL

<b>NRC Attendees</b>	<b>California Attendees</b>
Randy Erickson, RSAO	Gary Butner, Branch Chief
Arthur Howell, Director, DNMS	Phillip Scott, Health Physicist
Duncan White, Branch Chief, FSME	Gonzalo Perez, Health Physicist
Janine Katanic, FSME	

### Summary

On January 21, 2010, NRC hosted the fourth 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 follow up 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.

The Program reported that while the regulatory review process remains slow and arduous, the changes enacted by the Department have shown notable signs of improvement. Review activities that previously were more linear, such as one review or approval following the other, are now performed concurrently. Modifications to regulatory packages by different offices are now resolved together allowing for a more streamlined approach. While no regulation packages became final since the August Monitoring call, the Program reports that several are much closer to becoming final.

### Discussion

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.

During the February 17, 2009 call, the Program reported that changes had been made to the regulation development process. The Department hired a consultant who reviewed the long standing regulatory development process and made recommendations to the Department on how to make improvements, one of which involved the formation of teams to improve the development and review process. The Department adopted the consultant's recommendations and in January 2009, the first team was formed to work on the Program's backlogged regulations. The Department requested a team leader from the Office of Regulations be assigned; however, as of the date of the February 17<sup>th</sup> call, no team leader had been named by the Department and movement on the regulations was currently on hold.

On April 29, 2009, a Periodic Meeting was held with the Program where in part, the status of regulation development was discussed. At the time of the meeting, the Program had little to report because the process was still too new to have made any appreciable process.

During the August 25, 2009 call, the Program reported that while the new collaborative regulation review process remains slow, there have been areas where the process shown marked improvement. Review of rule packages are now able to run in parallel instead of one package following the previous package. The Program reported that two regulation packages became final on May 24, 2009.

NRC policy requires that Agreement States adopt certain equivalent regulations or legally binding requirements no later than 3 years after they become effective. During the April 2008 IMPEP review a total of 13 amendments were found to be overdue. Since that time, the Program has finalized three amendments and one additional amendment has become overdue. Several amendment packages have now moved closer to becoming finalized and a total of 11 amendments were currently overdue at the time of the January 21, 2010 call with the Program. 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 20 and Part 35 rules are in individual separate rule packages 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.

August 25, 2009 Status: This package is still in the Office of Regulations, and is being finalized under the new process. It is currently being prepared for the Director's Office approval. The package was approved by the Budget Office on 8/28/09.

January 21, 2010 Status: The Program is preparing the Public Notice document and expects to start the public process in the mid-March timeframe.

- "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.

August 25, 2009 Status: No change in status.

January 21, 2010 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.

August 25, 2009 Status: This package is still in the Office of Regulations, and is being finalized under the new process. It is currently being prepared for the Director's Office approval. The package was approved by the Budget Office on 8/28/09.

January 21, 2010 Status: The Program is preparing the Public Notice document and expects to start the public process in the mid-March timeframe.

- "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.

August 25, 2009 Status: This package is still in the Department undergoing final edits. When that is completed the package will be sent to the Branch Manager for approval, then on to the Department Director for approval. Because this rule includes fees for General Licenses it must also go before the Department of Finance for review before becoming effective.

January 21, 2010 Status: This package is currently included with the General License regulation package and is with the Health and Human Services Agency.

- “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. A draft of the 10 CFR Part 35 portion of the package is still in the 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.

August 25, 2009 Status: This package is still in the Office of Regulations, and is being finalized under the new process. It is currently being prepared for the Director's Office approval. The package was approved by the Budget Office on 8/28/09.

January 21, 2010 Status: The Program is preparing the Public Notice document and expects to start the public process in the mid-March timeframe.

- “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.

August 25, 2009 Status: No change in status.

January 21, 2010 Status: No change in status. The Branch continues to terminate licenses on a case-by-case basis.

- “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.

August 25, 2009 Status: This package is still in the Office of Regulations and under the new process is being finalized. It is being prepared for the Director’s Office approval and needs Budget Office approval. Note: Budget Office approved 8-28-09.

January 21, 2010 Status: The Program is preparing the Public Notice document and expects to start the public process in the mid-March timeframe for the Parts 20 and 35 portion of this amendment. Part 36 regulations have been adopted.

- “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.

August 25, 2009 Status: This package is still in the Office of Regulations and under the new process is being finalized by the Program. It is being prepared for the Director’s Office approval and still needs to be sent to the Budget Office for approval.

January 21, 2010 Status: This package has been approved by both the Director’s Office and the Budget Office. It is currently in the Health and Human Services Agency and once approved by them, it will be sent to the Department of Finance for approval. The Branch hopes to see this package back within two months.

- "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.

August 25, 2009 Status: This package is still in the Office of Regulations and under the new process is being finalized. It is being prepared for the Director's Office approval and needs Budget Office approval. Note: Budget Office approved 8-28-09.

January 21, 2010 Status: The Program is preparing the Public Notice document and expects to start the public process in the mid-March timeframe for the Part 20 and Part 35 portions of the regulation. Part 32 has been previously adopted by license condition.

- "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.

August 25, 2009 Status: This package is still in the Office of Regulations and under the new process is being finalized. It is being prepared for the Director's Office approval and needs Budget Office approval. Note: Budget Office approved 8-28-09.

January 21, 2010 Status: The Program is preparing the Public Notice document and expects to start the public process in the mid-March timeframe.

- "Minor Amendments," 10 CFR Part 20, 30, 32, 35, 40, and 70 amendments (71 FR 15005), that is due for Agreement State implementation by March 27, 2009.

January 21, 2010 Status: Parts 20 & 35 are addressed in our packages already discussed. Changes in Parts 30, 40 & 70 are compatibility category D so they are not being addressed. Change to Part 32 is already addressed through the licensing review process.

**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. 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.

The next call with the Program will be held on June 9, 2010.

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

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