

September 9, 2005

Larry Barrett, DVM, MS, DACVPM, Chief  
Division of Food, Drug and Radiation Safety  
California Department of Health and Human Services  
P. O. Box 997413, MS-7600  
Sacramento, CA 95899-7413

Dear Dr. Barrett:

On August 11, 2005, the Management Review Board (MRB) met to consider the proposed final Integrated Materials Performance Evaluation Program (IMPEP) report on the May 24-27, 2005, special review of the implementation of the California Program Improvement Plan (Plan). In addition, the MRB considered information contained in the revised California Plan submitted for the U.S. Nuclear Regulatory Commission (NRC) review on July 14, 2005, and a current program update provided by the California Management and staff during the MRB meeting. The final report as well as the MRB meeting minutes are enclosed, Enclosures 1 and 2.

Based on the special review results, the review team concluded, and the MRB agreed, that the 2004 Plan was not being utilized as an effective management tool, and that the responsibility for evaluating the effectiveness of the Plan appeared to be at the staff level, without direct management oversight.

Based on the NRC analysis of the revised Plan submitted in July 2005, and information provided during the MRB meeting by the California management and staff, the MRB concluded that the revised plan was an improvement on the initial Plan and in addition, acknowledged the involvement of the California senior management in the implementation of the revised Plan. The MRB also acknowledged the improvements the Program had accomplished since the May 2005 special review, that included: (1) the passing of the Program's fee rule; (2) the location of unaccounted for licensees identified during the 2004 IMPEP review; and (3) the reallocation of staff from different sections to assist in reducing the inspection backlog in the Los Angeles County office, to keep inspections current, and to ensure that incidents are being investigated in a timely manner.

Although the MRB expressed appreciation for the actions taken by the Program, the MRB noted that the Program has many challenges that remain. Most notable is the hiring and training of new staff. The MRB directed that the period of heightened oversight be continued to monitor the Program's progress in completing the actions identified in the Plan. Based on the results of the special review and the information contained in the revised Plan, the MRB directed the follow-up IMPEP review to take place in March of 2006.

L. Barrett

-2-

I appreciate the courtesy and cooperation extended to the IMPEP team during the special review. I also want to acknowledge your continued support for the Radiation Control Program and your efforts to revise the Plan. I look forward to our agencies continuing to work cooperatively in the future.

Sincerely,

***/RA/***

Martin J. Virgilio  
Deputy Executive Director for Materials, Research,  
State and Compliance Programs  
Office of the Executive Director for Operations

Enclosures: As stated

cc: Kevin Reilly, DVM, MPVM  
Deputy Director  
Prevention Services

Edgar D. Bailey, Chief  
Radiological Health Branch

Steve Collins, IL  
OAS Liaison to the MRB

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bcc: Chairman Diaz  
Commissioner Merrifield  
Commissioner Jaczko  
Commissioner Lyons

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INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM  
SPECIAL REVIEW OF  
CALIFORNIA'S PROGRAM IMPROVEMENT PLAN  
MAY 24 - 27, 2005

**FINAL REPORT**

U.S. Nuclear Regulatory Commission

**ENCLOSURE 1**

## **Background**

During the period of April 26-30, 2004, NRC staff conducted an Integrated Materials Performance Evaluation Program (IMPEP) review of the California Agreement State Program administered by the Radiologic Health Branch (Branch) in the Department of Health Services. On July 28, 2004, the Management Review Board (MRB) met to consider the proposed final California IMPEP report. The MRB found the California program adequate, but needs improvement, and not compatible with NRC's program. Because of the significance of the findings, the MRB directed that the California Program be placed on heightened oversight. The Program has been on heightened oversight since that time.

The Branch submitted its first Program Improvement Plan (Plan) as part of the heightened oversight process in June 2004. NRC staff had many concerns with the Plan including, lack of milestones, incorrect data and complicated format. From June 2004 to April 2005, NRC staff held bimonthly teleconferences with the Branch to try to achieve resolution on the effectiveness of the Plan and evaluate if the Branch was making progress towards completing the corrective actions. In April 2005, NRC management determined that the Branch had showed little progress in completing actions identified in their Plan and a special review team was dispatched to California.

During the period of May 24-27, 2005, an on-site NRC review of the Branch's implementation of the Plan was conducted. The review team members are identified in Appendix B. The NRC team reviewed the Program's efforts to carry out corrective actions as documented in their Plan in response to deficiencies identified during the IMPEP conducted April 26-30, 2004. The following is the team's findings for each IMPEP recommendation.

## **Status of the 2004 IMPEP Recommendations**

1. The 2004 IMPEP review team recommended that the State ensure that adequate resources, both funding and staffing, be devoted to the radiation control program.

Status: At the time of the review, the Branch had 11 vacant positions, mostly in Registration, Certification, Mammography and Standards Section, and the Financial Operations and Analysis Section. With regard to the Agreement State Program, there are currently three State and one County (Los Angeles) vacancies in Inspection, Compliance and Enforcement Section (ICE). Two of the vacancies were created when individuals left in October 2004 and April 2005. The third vacancy was created when a Senior Health Physicist in the Brea office was reassigned to perform special investigations for the ICE Supervising Health Physicist. The Supervising Health Physicist position in the Radioactive Materials Licensing Section is currently vacant (formerly filled by the Deputy Branch Chief); however, this position is expected to be filled shortly.

A staff vacancy in Los Angeles County resulted in a number of overdue inspections and a backlog in closing out investigations. This vacancy was created due to an individual in a radioactive materials inspector position being reassigned to different duties in 2004. As a result of this personnel shift, a backlog in inspections and closing out of investigations was created. The NRC staff noted that at the time of this review, the Branch had 25 overdue inspections, 20 of which were in the Los Angeles County office.

A significant number of the approximate 190 open investigations and allegations (referred to as 5010s) are also assigned to the Los Angeles County office. In May 2005, ICE reassigned a State inspector from the Berkeley office to perform overdue inspections in the Granada Hills office. The Branch also plans to temporarily reassign six licensing reviewers with inspector qualifications to assist in addressing the inspection backlog and open 5010s in the Los Angeles County office. These reassignments may affect the licensing backlog, which is already significant. Based on information provided to the NRC staff and discussions with the Deputy Branch Chief, the current backlog of licensing action is approximately 400 actions. According to the Deputy Branch Chief, this is representative of historical levels.

In addition to the current vacancies that need to be filled, the Program is expected to have eight new authorized positions with the approval of the new fees package. The Branch Chief stated that the Branch is expecting to receive a list of four individuals from Personnel that meet the experience and education requirements for the vacant Associate Health Physicist positions.

At the time of the review, the fees package that the Branch had been pursuing over the last few years was in the Governor's Office awaiting approval as an emergency rule. During the on-site review, NRC staff spoke to Department and Division management regarding the status of the fees package. Department management indicated that the Department continues to work on getting this fees package approved. Division management indicated that if the fees package is approved, the Branch's budget would increase from 13 to 19 million dollars (the new budget level would include a 5 percent buffer). The increase in the Branch's budget is important since it would fund training for staff. The current funding level of the Branch is sufficient to fund only salaries. Any recent training completed by Branch staff has been through the use of funds from vacant positions.

The NRC staff concluded that even though the current staffing level for the Program appears to be sufficient to carry out the Program's obligations under the Agreement with the NRC, the team believes, that at this level of staffing the Program will not be able to reduce the backlog that exists in some areas of the Program nor be able to absorb any future increased demands on the Program.

The team found that the increase in the number of overdue inspections and the large number of open 5010s are mainly the result of inadequate use of available staff. The Branch is currently addressing these issues through the temporary reassignment of staff. The reassignment of staff may result in an increase in licensing backlogs, but this should be short-term. The permanent adoption of the fees package is clearly important to assist the Branch to hire additional staff which would provide long term stability for the Branch.

Subsequent to this review, the fees package was submitted to the Office of Administrative Law (OAL) on June 13, 2005, and was approved by OAL as an emergency regulation on June 22, 2005. With the OAL approval, the package will be submitted to the Secretary of the State, and be effective for 120 days. However, there are certain actions that the Department must complete within the 120 days, or the regulation lapses.

The emergency regulation lapses by operation of law unless the agency (in this case DHS) files a completed rulemaking action with OAL or OAL approves a readoption of the emergency regulation. A completed rulemaking action includes the proposed permanent regulation, the rulemaking record, and a statement that the agency has complied with all regular rulemaking procedures (a "certificate of compliance"). An emergency regulation stays in effect during OAL review of the completed rulemaking action. After the notice and comment process has been completed, OAL reviews the proposed permanent regulation for compliance with the Authority, Reference, Consistency, Clarity, Nonduplication and Necessity standards, and reviews record of rulemaking for compliance with regular rulemaking requirements.

2. The 2004 IMPEP review team recommended that the Branch enhance its ability to account for the whereabouts and security of licensed materials known to have existed under a license.

Status: A committee (comprised of licensing and inspection staff) meets monthly to review delinquent/unaccounted for licensees to determine what action should be taken. At the time of the review there were eight licensees that were identified for additional action. Division management has committed to providing investigative assistance from another branch under his supervision to assist in finding these licensees.

3. The 2004 IMPEP review team recommended that the Branch implement procedures to ensure inspections findings are issued to licensees within 30 days of completion of routine inspections.

Status: Inspection findings are issued to licensees by the regional offices. Once the entire inspection package is completed (including all correspondence), it is provided to the ICE Supervising Health Physicist in Sacramento. In response to the recommendation, ICE has developed a database to track the timeliness of the correspondence sent to licensees. NRC staff reviewed the database and found that since the 2004 IMPEP review, 375 inspections have been completed with 19 inspection findings issued beyond 30 days. Overall, this represents good performance by ICE; however, the NRC staff noted that the database only documents the timeliness of these actions and does not provide an effective management tool for the ICE Supervising Health Physicist to track the progress of ongoing inspections. NRC staff noted that of the 19 late inspection findings transmitted by the regional offices, in eight cases, the findings were transmitted at least 57 days beyond the 30-day goal (average of 71 days with a range of 57 to 116 days). Seven of these eight cases were from one regional office (Los Angeles County). For the remaining 11 overdue inspection findings, the average time overdue was eight days (range of one to 25 days overdue).

4. The 2004 IMPEP review team recommended that the incident and allegation history of a licensee be reviewed during the evaluation of licensing actions.

Status: The Branch has modified their administrative process to add a comment on the master licensing list indicating if there is an open incident or allegation pending for any licensing action. This will allow the license reviewer to contact the ICE inspector or supervisor to determine if the license reviewer will need to take specific action during the review and amendment of the license. The master licensing list reflects incoming



licensing actions by unit and type. Each action includes a comment line that reflects a brief summary of the action and any previous assignments of the action entered by the Special Projects and Support Unit. This list is used by the Senior Health Physicist to assign action to a reviewer. The Special Projects and Support Unit now compares the incoming license number to the 5010 database and identifies a match on the comment line. The modification to the master licensing list would now identify an open incident or allegation by including "5010 #xxx Health and Safety (H&S) or administrative." The designation 5010 refers to the Form and database used to track a particular incident or allegation (specific number or "#xxx") with an indication of its priority; either H&S or administrative. This modification to the master licensing list was first accomplished during the NRC staff's on-site visit. The Branch plans to complete the procedure and evaluate feedback from licensing staff in June 2005.

5. The 2004 IMPEP review team recommended that the Branch, in coordination with Idaho National Engineering and Environmental Laboratory, complete and close all reportable incidents in the Nuclear Material Events Database (NMED).

Status: The Branch has closed and/or completed most of the reportable events. Only eight events remain opened.

6. The 2004 IMPEP review team recommended that the Branch submit reportable events to NMED within one month of their occurrence in accordance with the "Handbook of Nuclear Events Reporting in the Agreement States." (Open recommendation from the 1999 IMPEP report.)

Status: This recommendation was not reviewed.

7. The 2004 IMPEP review team recommended that the Branch establish and implement a system to track incident and allegation investigations to ensure timeliness, proper documentation, appropriate follow up and closure.

Status: As of May 4, 2005, there were 95 total open investigations from 2004-2005, and 118 (60 percent) have been open for greater than 90 days. (The Los Angeles County office has 72 of the 195 opened events.) The Branch established a procedure (RH 5010, "Matter Requiring Investigation/Inspection") and a database to track events. The procedure requires that Form 5010 be completed upon first notice of an event. However, after the Form 5010 is opened it appears that there is little to no followup to close the event in the database. The team is confident that the Branch responds to events promptly and conducts thorough investigations of events; however, many events remain open in the 5010 database including some events that date back to 2004 (when the database was first established). The team concluded that the administrative closing of these events needs to be addressed by the Branch.

8. The 2004 IMPEP review team recommended that the Branch develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility.

Status: The review team noted that the Branch had made some progress in addressing NRC regulations required for compatibility; however, no rulemaking packages have been approved since the 2004 IMPEP review. Current NRC policy requires that



Agreement States adopt certain equivalent regulations or legally binding requirements no later than three years after they are effective. At the time of the review, the review team identified 20 NRC amendments that were overdue and need to be addressed and five other NRC amendments that will need to be addressed in the future. The current status of each amendment is explained in Appendix A. For amendments that only affect a small number of licensees, the Branch is utilizing or will utilize license conditions to bring the affected licenses into compliance.

The Branch has several rulemaking packages in various stages of California's regulatory process. Most packages are still in the early stages of the approval process. A review of the State's administrative rulemaking process found that the process takes at a minimum one year (and often longer) after preparation of a draft rule to the final filing with the Secretary of State, after which the rules become effective in 30 days. The public, the NRC, other agencies, and all potentially impacted licensees and registrants are offered an opportunity to comment during the process. Comments are considered and incorporated as appropriate before the regulations are finalized, approved, and filed with the Secretary of State.

In speaking with several Branch employees, the review team identified that several rulemaking packages are held up in the Department's Office of Budgets (Budgets). One package in particular, which addresses industrial radiography regulations, has been sitting in Budgets since the beginning of February of this year. Branch staff explained that Budgets has experienced a significant amount of turnover in the past several years. Budgets has had a difficult time retaining knowledgeable staff to reduce the existing backlog. The Department currently has a substantial number of health care rulemaking packages awaiting approval by Budgets prior to moving on to the later stages of rulemaking. In addition to being part of the rulemaking process, all personnel actions in the Department (i.e., hires, promotions, transfer, etc.) must be approved by Budgets.

The review noted that the Branch has made progress toward resolving this recommendation; however, based on the IMPEP indicator rating criteria for Compatibility Requirements, the Branch would still be likely to be found "unsatisfactory" at an actual IMPEP review. The review team estimates that it could take the Branch 1-2 years from the date of this review to become compatible with NRC's program. A summary of the status of each rulemaking package is included as Appendix A.

9. The 2004 IMPEP review team recommended that the Branch formally establish and implement (1) a process to notify the Sealed Source and Device (SS&D) evaluation program of all defects and incidents involving California administered sheets; and (2) a procedure for the SS&D evaluation program to investigate report of defects and incidents for root cause and generic implications for possible subsequent reevaluation of SS&D sheets.

Status: NRC staff noted that the Branch modified their 5010 Form to allow the ICE staff to categorize a particular incident as an equipment problem or defect. As discussed above, individual incoming licensing actions on the licensing master list (which include amendments to SS&D registry sheets) are now noted with a particular 5010 reference number. This alerts the SS&D reviewer that an incident involving this device is still pending.

The Branch discussed with the NRC staff the status of guidance under development for SS&D reviewers to investigate reports of defects and incidents for root cause and generic implications. A draft procedure has been prepared by SS&D staff which has been reviewed by the SS&D Supervising Health Physicist. Once revised and finalized, the guidance will be implemented by staff by July 1, 2005.

10. The 2004 IMPEP review team recommended that the State re-evaluate the Nova R&D, Inc. Model Cindi neutron device with special attention to the potential exposure received by the general licensed user. If it is determined that the exposure rate exceeds that which is allowed for persons covered under a general license, the device should be reclassified for distribution to persons covered under a specific license and the SS&D evaluation certificate should be amended to reflect any required changes. (Open recommendation from the 1996 IMPEP report.)

Status: The Branch indicated that this registry sheet (CA-0380-D-101-G) has been modified to allow only distribution to specific licensees. NRC staff reviewed the September 13, 2004, letter to Nova R&D from the Branch which reclassified the device to require distribution to only persons covered under a specific license. The SS&D evaluation certificate was also amended to reflect the required changes.

### **Summary**

The review team concluded, and the MRB agreed, that at the time of the special review the Plan was not being utilized as an effective management tool, and that the responsibility for evaluating the effectiveness of the Plan appeared to be at the staff level, without direct management oversight. State management indicated during the exit meeting that the Plan would be revised with management involvement. In addition, the State management indicated that future updates would be sent directly from State management to the NRC to ensure that senior management reviews and approves the Plan prior to submission to the NRC and also to evaluate progress on the corrective actions.

The NRC received a revised Plan from California on July 14, 2005. After review, NRC staff concluded that the revised Plan was an improvement from previous versions of the Plan and met the requirements of the heightened oversight process.

The MRB directed that the period of heightened oversight be continued to monitor the Program's progress in completing the actions identified in the revised Plan. Based on the results of the MRB, the follow-up IMPEP review will take place in March of 2006.

## STATUS OF REGULATIONS IN THE STATE OF CALIFORNIA

### OVERDUE

|   | Amendment  | Status at the time of the review   |
|---|--|--|
| 1 | 1992-1: Quality Management Programs and Misadministrations - Part 35   | <b>Not addressed.</b> This amendment was superceded by 2002-2: Medical Use of Byproduct Material. The Branch is currently drafting equivalent regulations to the new Part 35.  |
| 2 | 1993-2: Licensing and Radiation Safety Requirements for Irradiators - Part 36  | <b>License conditions.</b> The Branch is amending the six affected irradiator licenses to be in compliance with equivalent regulations to 10 CFR Part 36. The Branch will use license conditions to achieve this. The license conditions will incorporate 10 CFR Part 36 by reference. There is no target date for the completion of amendments to affected licenses.  |
| 3 | 1994-3: Timeliness in Decommissioning Material Facilities - Parts 30, 40, and 70   | <b>Not addressed.</b> The Branch only needs to adopt equivalent language to 10 CFR Part 30.36. Some of the requirements may already be met in the existing California regulations; however, the Branch has not submitted them for NRC review. The Branch is currently drafting equivalent rules to fully meet the requirements of this amendment as well as 1997-6: Radiological Criteria for License Termination, but must incorporate language compatible with the California Environmental Quality Act.               |
| 4 | 1995-4: Performance Requirements for Radiography Equipment - Part 34   | <b>Not addressed.</b> This amendment was superceded by 1997-5 and 1998-4. The Branch is in the process of adopting regulations equivalent to the current version of 10 CFR Part 34.  |
| 5 | 1995-7: Medical Administration of Radiation and Radioactive Materials - Parts 20 and 35  | <b>Partially addressed.</b> The Branch adopted equivalent regulations to the Part 20 requirements of this amendment by reference to 10 CFR Part 20 as printed on January 1, 1999. The Branch has not adopted equivalent regulations to the Part 35 requirements of this amendment. The Part 35 requirements have been superceded by 2002-2: Medical Use of Byproduct Material. The Branch is currently drafting equivalent regulations to the new Part 35.   |
| 6 | 1996-1: Compatibility with the International Atomic Energy Agency - Part 71  | <b>Not addressed.</b> This amendment has been superceded by 2004-1. The Branch intends to draft regulations equivalent to the requirements in 2004-1.  |
| 7 | 1996-3: Termination or Transfer of Licensed Activities: Recordkeeping Requirements - Parts 20, 30, 40, 61, and 70                  | <b>Partially addressed.</b> The Branch adopted equivalent regulations to the Part 20 requirements of this amendment by reference to 10 CFR Part 20 as printed on January 1, 1999. The Branch currently does not have a target date for addressing the Part 30 requirements of this amendment.  |
| 8 | 1997-2: Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State - Part 150 | <b>In process.</b> This amendment was submitted to the NRC in final; however, one comment was made on the rule. The language was revised to be compatible with NRC's rule. The package was submitted to the Department's Office of Regulations (OR) and was commented on. OR suggested that the original package be split into three packages based on subject content. The Branch has again revised the package per OR's comments. This portion of the package is nearly ready for submittal to OR for a second review. |
| 9 | 1997-3: Criteria for the Release of Individuals Administered Radioactive Material - Parts 20 and 35                                | <b>Partially addressed.</b> The Branch adopted equivalent regulations to the Part 20 requirements of this amendment by reference to 10 CFR Part 20 as printed on January 1, 1999. The Branch has not adopted equivalent regulations to the Part 35 requirements of this amendment. The State is currently drafting equivalent regulations to the new Part 35.  |

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|----|---|--|
| 10 | 1997-5: Licenses for Industrial Radiography and Radiation Safety requirements for Industrial radiography operations - Parts 30, 34, 71, and 150 | <b>In process.</b> The Branch is in the process of adopting regulations equivalent to the current version of 10 CFR Part 34. The Branch submitted the draft proposed rules to the NRC for review and comment on May 23, 2005. The rule package is currently in the Department's Office of Budgets.   |
| 11 | 1997-6: Radiological Criteria for License Termination - Parts 20, 30, 40, and 70  | <b>Rescinded.</b> The State originally adopted the Part 20 requirements of this amendment with an incorporation by reference to 10 CFR Part 20. The license termination criteria in Part 20 were rescinded when the RHB was sued. The language for the license termination criteria must be compatible with the California Environmental Quality Act. There is no target date for addressing this amendment.                   |
| 12 | 1997-7: Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea - Part 30   | <b>In process.</b> This amendment was submitted to OR in a package with several other amendments. OR suggested splitting the package into three different packages to reduce the complexity for non-technical reviewers. The Branch has complied with the suggestion and is currently working toward resubmitting this amendment for review.   |
| 13 | 1998-1: Deliberate Misconduct by Unlicensed Persons - Parts 30, 40, 61, 70, 71, and 150   | <b>In process.</b> This amendment was submitted to the NRC in draft for review. The State is currently reviewing the package in Budgets where it has been since February 3, 2005.  |
| 14 | 1998-4: Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations - Part 34                  | <b>In process.</b> The Branch is in the process of adopting regulations equivalent to the current version of 10 CFR Part 34. The Branch submitted the draft proposed rules to the NRC for review and comment on May 23, 2005. The rule package is currently in Budgets.  |
| 15 | 1998-5: Minor Corrections, Clarifying Changes, and a Minor Policy Change - Parts 20, 35, and 36   | <b>Not addressed.</b> The Branch adopted equivalent regulations to the Part 20 requirements of this amendment by reference to 10 CFR Part 20 as printed on January 1, 1999. The Branch has not adopted equivalent regulations to the Part 35 requirements of this amendment. The State is currently drafting equivalent regulations to the new Part 35. The Part 36 requirements will be addressed through license conditions. |
| 16 | 1999-3: Respiratory Protection Controls to Restrict Internal Exposure - Part 20   | <b>In process.</b> The Branch has submitted a package to OR updating their reference to 10 CFR Part 20. The Branch is revising their regulations to reference 10 CFR Part 20 as printed on January 1, 2005, excluding the license termination criteria.  |
| 17 | 2000-1: Energy Compensation Sources for Well Logging and Other Regulatory Clarifications - Part 39  | <b>In process.</b> This package was submitted to OR on May 20, 2005 along with the Part 39 requirements of 2000-2.   |
| 18 | 2000-2: New Dosimetry Technology - Parts 34, 36, and 39   | <b>In process.</b> Part 34 requirements are included in a package with the following amendments: 1997-5 and 1998-4. This package is currently with Budgets. The Branch is addressing the Part 36 requirements through license conditions that incorporate Part 36 by reference. Part 39 requirements are included in a package with 2000-1 that was submitted to OR on May 20, 2005.   |
| 19 | 2001-1: Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, and 32                     | <b>Partially addressed.</b> The Branch has addressed 10 CFR Part 32.52 Paragraphs (a) and (b) through license conditions. The State is working on submitting a package to the Office of Regulations that includes the Part 31 requirements. The Branch is waiting for the fee rule to be in effect before submitting this portion of the package.  |

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| 20 | 2002-1: Revision of the Skin Dose Limit - Part 20 | <b>In process.</b> The Branch has submitted a package to OR updating their reference to 10 CFR Part 20. The Branch is revising their regulations to reference 10 CFR Part 20 as printed on January 1, 2005, excluding the license termination criteria. |
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#### TO BE ADDRESSED IN THE FUTURE

|   | Amendment  | Status at the time of the review   |
|---|--|--|
| 1 | 2002-2: Medical Use of Byproduct Materials - Parts 20, 32, and 35  | <b>Drafting.</b> The Branch has submitted a package to OR updating their reference to 10 CFR Part 20. This will address the Part 20 requirements of this amendment. No progress has been made on addressing the Part 32 requirements of this amendment. The State is currently drafting equivalent regulations to the new Part 35. |
| 2 | 2003-1: Financial Assurance for Materials Licensees - Parts 30, 40, and 70   | <b>No progress.</b>  |
| 3 | 2004-1: Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments - Part 71 | <b>Drafting.</b>   |
| 4 | 2005-1: Security Requirements for Portable Gauges Containing Byproduct Material - Part 30                            | <b>License conditions.</b> The Branch may already have license conditions in place that satisfy the requirements of this amendment; however, the license conditions have not been submitted for review by the NRC.   |
| 5 | 2005-2: Medical Use of Byproduct Materials - Recognition of Specialty Boards - Part 35                               | <b>Drafting.</b> The State is currently drafting equivalent regulations to the new Part 35.  |

## IMPEP REVIEW TEAM MEMBERS

| <b>Name</b>             | <b>Area of Program Improvement Plan Reviewed</b>   |
|-------------------------|--|
| Duncan White, Region I  | Technical Staffing and Training<br>(Recommendation 1)<br>Technical Quality of Incident and Allegation Activities<br>(Recommendations 4, 5, 6 and 7)<br>Sealed Source and Device Program<br>(Recommendation 9 and 10) |
| Linda McLean, Region IV | Status of Materials Inspection Program<br>(Recommendations 2 and 3)<br>Technical Quality of Licensing Actions<br>(Recommendation 7)  |
| Aaron McCraw            | Compatibility Requirements<br>(Recommendation 8)   |