

January 27, 2012

Ron Chapman, M.D., Director
California Department of Public Health
1615 Capitol Avenue
Sacramento, CA 95899-7377

Dear Dr. Chapman:

On January 5, 2012, the Management Review Board (MRB) met to consider the proposed final Integrated Materials Performance Evaluation Program (IMPEP) report on the California Agreement State Program. The MRB found the California program adequate to protect public health and safety, and not compatible with the U.S. Nuclear Regulatory Commission's (NRC) program.

Section 5.0, page 17, of the enclosed final report contains a summary of the IMPEP team's findings and recommendations. Based on the results of the current IMPEP review, the next IMPEP review will take place in approximately 4 years, with an early Periodic Meeting scheduled in 1 year from the date of the MRB meeting and an additional Periodic Meeting in approximately 2.5 years from the date of the current review. The period of monitoring currently in place for California will continue until significant progress is made in the regulation promulgation process.

The MRB acknowledged your response, dated January 5, 2012, to the proposed final report and the review team's recommendation. Your suggested corrections were incorporated in the final report. We noted, however, that your response did not fully respond to the recommendation. Specifically, the recommendation asks California to develop and implement a detailed action plan that fully documents actions, tasks, and milestones associated with each regulation package. We would appreciate additional information from you in that regard. If you wish, Randy Erickson, your Regional State Agreement Officer, has offered to assist with the development of the action plan. Your action plan will be reviewed during the monitoring calls and subsequent reviews.

R. Chapman

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I appreciate the courtesy and cooperation extended to the IMPEP team during the review. I also wish to acknowledge your continued support for the Agreement State program. I look forward to our agencies continuing to work cooperatively in the future.

Sincerely,

/RA/

Michael F. Weber
Deputy Executive Director for Materials, Waste,
Research, State, Tribal and Compliance Programs
Office of the Executive Director for Operations

Enclosure:
California Final IMPEP Report

cc w/encls: Rufus Howell, Director
Center for Environmental Health

Gonzalo Perez, Chief
Radiologic Health Branch

Stephen Woods, Chief
Division of Food, Drug, and Radiation Safety

James D. Boyd, Commissioner
California Energy Commission
State Liaison Officer



INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM
REVIEW OF THE CALIFORNIA AGREEMENT STATE PROGRAM

OCTOBER 17-21, 2011

FINAL REPORT

Enclosure 1

EXECUTIVE SUMMARY

This report documents the results of the Integrated Materials Performance Evaluation Program (IMPEP) review of the California Agreement State Program. The review was conducted during the period of October 17-21, 2011, by a review team composed of technical staff members from the U.S. Nuclear Regulatory Commission (NRC) and the States of Alabama and Ohio.

Based on the results of this review, California's performance was found unsatisfactory for the indicator, Compatibility Requirements, and satisfactory for the six remaining performance indicators reviewed. The finding for the Compatibility Requirements indicator remains unchanged from the previous IMPEP review. Progress has been made on the indicator, but the State has not yet addressed a large number of outstanding NRC comments regarding earlier regulation packages. The review team determined that one recommendation from the 2008 IMPEP review, regarding inspection frequency, should be closed. The other recommendation from the 2008 IMPEP review, regarding regulation adoption, was modified to require a specific action plan to resolve the backlog of overdue regulations.

Accordingly, the review team recommended, and the Management Review Board (MRB) agreed, that the California Agreement State Program is adequate to protect public health and safety, and not compatible with NRC's program. The review team also recommended, and the MRB agreed, that the period of Monitoring currently in place for California continue until significant progress is made in the regulation promulgation process.

The review team recommended, and the MRB agreed, that the next IMPEP review take place in approximately four years, with an early Periodic Meeting scheduled in one year from the date of the MRB meeting and an additional Periodic Meeting in approximately 2.5 years.

1.0 INTRODUCTION

This report presents the results of the Integrated Materials Performance Evaluation Program (IMPEP) review of the California Agreement State Program. The review was conducted during the period of October 17-21, 2011, by a review team composed of technical staff members from the U.S. Nuclear Regulatory Commission (NRC) and the States of Alabama and Ohio. Team members are identified in Appendix A. The review was conducted in accordance with the "Implementation of the Integrated Materials Performance Evaluation Program and Rescission of Final General Statement of Policy," published in the *Federal Register* on October 16, 1997, and NRC [Management Directive 5.6](#), "Integrated Materials Performance Evaluation Program (IMPEP)," dated February 26, 2004. Preliminary results of the review, which covered the period of April 5, 2008, to October 21, 2011, were discussed with California managers on the last day of the review.

A draft of this report was issued to California for factual comment on November 10, 2011. The State responded by electronic mail dated January 5, 2012. A copy of the State's response is included as an Attachment to this report. The Management Review Board (MRB) met on January 5, 2012, to consider the proposed final report. The MRB found the California Agreement State Program adequate to protect public health and safety, and not compatible with NRC's program.

The California Agreement State Program is administered by the Radiologic Health Branch (the Branch), which is located within the Division of Food, Drug, and Radiation Safety (the Division). The Division is part of the Department of Public Health (the Department). Organization charts for the Department, Division, and the Branch are included as Appendix B.

At the time of the review, the California Agreement State Program regulated 1,853 specific licenses authorizing possession and use of radioactive materials. The review focused on the radioactive materials program as it is carried out under the Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of California.

In preparation for the review, a questionnaire addressing the common and applicable non-common performance indicators was sent to the Branch on June 23, 2011. The Branch provided its response to the questionnaire on October 1, 2011. A copy of the questionnaire response may be found in NRC's Agencywide Documents Access and Management System (ADAMS) using the Accession Number ML11279A020.

The review team's general approach for conduct of this review consisted of: (1) examination of the Branch's response to the questionnaire, (2) review of applicable California statutes and regulations, (3) analysis of quantitative information from the Branch's database, (4) technical review of selected regulatory actions, (5) field accompaniments of nine inspectors, and (6) interviews with staff and managers. The review team evaluated the information gathered against the established criteria for each common and the applicable non-common performance indicator and made a preliminary assessment of the California Agreement State Program's performance.

Section 2.0 of this report covers the State's actions in response to recommendations made during previous reviews. Results of the current review of the common performance indicators

are presented in Section 3.0. Section 4.0 details the results of the review of the applicable non-common performance indicators, and Section 5.0 summarizes the review team's findings.

2.0 STATUS OF ITEMS IDENTIFIED IN PREVIOUS REVIEWS

During the previous IMPEP review, which concluded on April 4, 2008, the review team made two recommendations regarding the California Agreement State Program's performance. The status of the recommendations is as follows:

1. The review team recommends that the State reevaluate its justification for inspecting high dose rate remote afterloader (HDR) licensees on a 3-year interval and demonstrate that the health, safety, and security of HDR devices are not compromised. (Section 3.2 of the 2008 IMPEP report)

Status: California modified the inspection frequency for HDR licensees to a 2-year interval, consistent with NRC's inspection frequency. This recommendation is closed.

2. The review team recommends that the Branch develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility. (Section 4.1.2 of the 2008 IMPEP report)

Status: The State developed an action plan and has made considerable progress in the adoption of regulations; however, a backlog of uncompleted regulation packages remains. The review team modified the 2008 recommendation to require a specific plan, with actions, tasks and milestones, to resolve the backlog of overdue regulations, as described in Section 4.1 below. This recommendation remains open.

3.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review NRC Regional and Agreement State radioactive materials programs. These indicators are: (1) Technical Staffing and Training, (2) Status of Materials Inspection Program, (3) Technical Quality of Inspections, (4) Technical Quality of Licensing Actions, and (5) Technical Quality of Incident and Allegation Activities.

3.1 Technical Staffing and Training

Issues central to the evaluation of this indicator include the Branch's staffing level and staff turnover, as well as the technical qualifications and training histories of the staff. To evaluate these issues, the review team examined the Branch's questionnaire response relative to this indicator, interviewed Branch managers and staff, and reviewed job descriptions, training plans, and training records. The review team also considered any possible workload backlogs in evaluating this indicator.

At the time of the previous review, the Branch was comprised of five Sections, all reporting to the Branch Chief. During the review period, the Branch added a sixth Section to allow each Section to have a more focused approach to the Branch's business. The Financial Operations and Analysis Section support program infrastructure and human resources. The Registration

and Certification Section, and the Inspection, Compliance, and Enforcement Section, Radiation Machines, deal primarily with machine-made radiation. The Radioactive Materials Licensing Section (the Licensing Section) performs all of the Agreement State licensing functions. The Inspection, Compliance, and Enforcement (ICE) Section, Radioactive Materials, is the inspection arm of the Branch for the materials program; and, the new Strategic Planning & Quality Assurance Section handles special projects and strategic planning for the Branch.

The Licensing Section employs three Senior Health Physicists as Unit Supervisors and has staff positions for 15 Associate Health Physicists, one Assistant Health Physicist, and two Junior Health Physicist positions. Most licensing functions are performed in the Sacramento office by three Units in the Licensing Section. A previous fourth Licensing Unit was moved from the Licensing Section to the Strategic Planning & Quality Assurance Section. This Unit, in part, performs radiological assessments.

The ICE Section is operated out of the Sacramento office and two regional offices, one in Richmond (Northern California), and one in Brea (Southern California). Both of the regional offices have a Senior Health Physicist as a supervisor. The Northern California Office has six Associate Health Physicists and two support staff, while the Southern California Office has four Associate Health Physicists. In addition, the Branch has contracts with Los Angeles and San Diego Counties to perform radioactive material inspections. Three full-time equivalents for radioactive materials inspections are currently contracted in the County programs. At the time of the review, the total number of health physicist positions dedicated to radioactive materials in the ICE Section was 12, not including contractor support. The review team found that the balance in staffing between the licensing and inspection programs was effective.

A separate unit, the Regulations Unit, is staffed by a Senior Health Physicist and an Associate Health Physicist that maintain the State's radioactive materials regulations. These individuals previously reported to the Branch Chief but now report to the Strategic Planning & Quality Assurance Section Chief.

The Branch Chief position is vacant due to a retirement and is in the process of being filled, and is currently staffed by Section Chiefs rotating through the position. Discussions with Divisional managers indicated that the Branch Chief position would be permanently filled in the near future. The current Acting Branch Chief is also the Section Chief for the Licensing Section. The Section Chief for the ICE Section will act in the Branch Chief position beginning December 1, 2011. The review team noted that the Branch had two vacancies in the materials program at the time of the review. One position was being permanently held open due to personnel issues, and a selection and job offer had been made for the second vacant position. The review team determined that actions taken by the Branch in reorganizing and recruiting qualified individuals for vacancies have proven effective. Despite being subject to a fragile economy, staff departures are promptly filled, helping to keep up with the high volume of work produced by the Branch.

One area the review team noted where staffing was an issue was in the area of regulation development. As discussed later in this report, regulation development has continued to be an ongoing problem for the Branch. California has a long process for rule adoption which commences after regulations are drafted by the Branch. That initial drafting of regulations was an area of concern for the review team. For several years, the Branch has had one individual

primarily responsible for all rule development (materials, X-ray and other areas). Because this individual is primarily responsible for all regulation development, the time allocated to each type of regulation development is limited. This splitting of time has resulted in the Branch often being several years behind in regulation development and ultimately being placed on different forms of increased surveillance by the NRC. Department managers are committed to applying additional resources to address this problem.

The review team also reviewed job descriptions, qualification matrixes, and training records maintained by the inspection and licensing sections. The training policy for inspectors is contained in the ICE Section manual 17.0, "Qualification of Inspectors." Inspectors are permitted to independently perform inspections for those categories of licenses for which training was completed. The Branch documents the training requirements for license reviewers in Procedure 07-01, "Training Program for Radioactive Materials Licensing Health Physicists." Qualifications for both license reviewers and inspectors are consistent with those found in NRC's Inspection Manual Chapter (IMC) 1246, "Formal Qualification Programs in the Nuclear Materials Safety and Safeguards Program Area." Currently, all license categories are covered by trained inspectors or license reviewers as indicated by the Branch's qualification records.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that California's performance with respect to the indicator, Technical Staffing and Training, be found satisfactory.

3.2 Status of Materials Inspection Program

The review team focused on five factors while reviewing this indicator: inspection frequency, overdue inspections, initial inspections of new licenses, timely dispatch of inspection findings to licensees, and performance of reciprocity inspections. The review team's evaluation was based on the Branch's questionnaire response relative to this indicator, data gathered from the Branch's database, examination of completed inspection casework, and interviews with management and staff.

The review team verified that California's inspection frequencies for all types of radioactive material licenses are at the same frequency as similar license types listed in IMC 2800, "Materials Inspection Program."

The review team determined that during the review period, the Branch conducted approximately 685 Priority 1, 2, and 3 inspections, based on the inspection frequencies established in IMC 2800. Fifty-four of these inspections were conducted overdue by more than 25 percent of the inspection frequency prescribed in IMC 2800. The review team identified nine current overdue inspections at the time of the review.

The Branch performed approximately 153 initial inspections during the review period, of which 19 were conducted overdue. As required by IMC 2800, initial inspections should be conducted within 12 months of license issuance.

Branch supervisors stated the inspections were sometimes conducted late due to changing inspection priority codes, database issues and lack of management monitoring of overdue inspections. The Branch self-identified the issues and developed a plan to better monitor

inspection due dates. Overall, the review team calculated that the Branch performed 9.8 percent (82 overdue inspections out of 838 inspections) of the total Priority 1, 2, and 3 and initial inspections overdue during the review period.

The review team evaluated the Branch's timeliness in providing inspection findings to licensees. The review team's evaluation of 22 inspection reports identified only two inspection findings letters were communicated to the licensees beyond the Branch's goal of 30 days post-inspection. The two late inspection letters were issued 45 and 68 days after the inspections.

During the review period, the Branch granted 204 reciprocity permits, 75 of which were candidate licensees, based upon the criteria in IMC 1220, "Processing of NRC Form 241 and Inspection of Agreement State Licensees Operating under 10 CFR 150.20." Twenty-six of the candidate licensees were inspected. The review team determined that the Branch met or exceeded the NRC's criteria of inspecting 20 percent of candidate licensees operating under reciprocity in each of the four years covered by the review period.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that California's performance with respect to the indicator, Status of Materials Inspection Program, be found satisfactory.

3.3 Technical Quality of Inspections

The review team evaluated the inspection reports, enforcement documentation, inspection field notes, and interviewed inspectors for 29 radioactive materials inspections conducted during the review period. The casework reviewed included inspections conducted by 15 Branch inspectors and covered inspections of various license types, including: medical broad scope, medical institutions, medical private practice, portable gauges, industrial radiography, well logging, research and development, veterinary use, gamma knife, nuclear pharmacy, mobile nuclear medicine, service providers, reciprocity and Increased Controls. The evaluation also included a review of documentation of decommissioning inspections and confirmatory surveys performed by the Radiological Assessment Unit. Appendix C lists the inspection casework files reviewed, with case-specific comments, as well as the results of the inspector accompaniments.

Based on the evaluation of casework, the review team noted that inspections covered all aspects of licensed radiation programs. The review team found that compliance inspection reports were generally complete and consistent, with sufficient documentation to ensure that a licensee's performance with respect to health and safety was acceptable. The documentation supported violations, recommendations made to licensees, unresolved safety issues, and discussions held with licensees during exit interviews. The reports used for Increased Controls inspections were properly marked with "Official Use Only - Security Related Information" and correspondence to licensees pertaining to those inspections was also found to be properly marked.

The review team determined that inspectors conducted field inspections, as appropriate, to evaluate a licensee's program. The review of the casework did note one instance where an unqualified inspector performed an inspection of a nuclear pharmacy. This was brought to the

Division management's attention by the review team and based on the circumstances, a decision was made by Branch managers to consider the inspection incomplete. The inspection was rescheduled to be performed by a qualified inspector.

The inspection procedures utilized by the Branch are generally consistent with the inspection guidance outlined in IMC 2800. The Branch has a goal of performing 90 percent of its inspections as unannounced, but allows one-day announced inspections to increase inspector efficiency. The compliance inspection reports used by the inspectors are detailed with opportunities for the inspector to add comments as needed to describe items noted during the inspection. For the inspections, the inspector has the option to provide inspection results to the licensee utilizing the Branch 2514 "short" form, which requires signature by the licensee and inspector, and is left with the licensee at the completion of the onsite inspection. This method can be used for an inspection where no violations or only minor items of concern are identified. The ICE Section supervisors review and sign all inspection reports. Supervisory accompaniments were conducted annually for all inspectors.

The review team determined that the inspection findings were appropriate and prompt regulatory actions were taken, as necessary. All inspection findings were clearly stated and documented in the reports and communicated to the licensees. The Branch issues to the licensee either a letter indicating a clear inspection or a letter with a Notice of Violation which details the results of the inspection. These letters are routinely sent within 30 days of the inspections with a few exceptions noted. When the Branch issues a Notice of Violation, the licensee is required to provide a written corrective action plan within 30 days. The licensee's corrective measures are evaluated by the inspector and an ICE Section supervisor, and if found satisfactory, an acknowledgement letter is sent to the licensee. After all actions are completed, an inspection packet that includes a compliance inspection code sheet, inspection report and enforcement documentation, is sent to the Sacramento office where it is filed and the inspection database is updated.

The review team noted that the Branch has an adequate supply of survey instruments to support their inspection program. Inspectors are assigned appropriate, calibrated survey instrumentation, such as Geiger-Mueller (GM) meters, scintillation detectors, ion chambers, micro-R meters and portable multichannel analyzers. The Branch also has neutron detectors and a wide array of survey and analysis equipment to support the inspection program and the Radiological Assessment Unit. Instruments are calibrated annually by an approved vendor in the Sacramento area.

A review team member visited the State laboratory facility to evaluate its support to the Branch. The State laboratory is located adjacent to the Branch's Northern California Office and performs sample analysis for multiple programs within the Branch. The laboratory has four staff positions which are dedicated to radiochemistry analysis, two of which are funded entirely by the Branch. The laboratory has a wide array of analytical equipment capable of detailed radiochemistry analysis. The equipment includes multiple high purity germanium detectors, several gamma counters, and various scintillation counters.

The review team accompanied nine of the Branch's inspectors in September 2011. The inspectors conducted inspections at industrial radiography facilities, a nuclear pharmacy, a gamma knife, medical facilities, a pool irradiator, and a research facility. Three of the

inspections included a review of the licensees' implementation of the Increased Controls. Appendix C lists the inspector accompaniments. The inspectors demonstrated performance-based inspection techniques and knowledge of the regulations. The inspectors were well trained, prepared for the inspections, and thorough in their audits of the licensees' radiation safety programs. The inspectors conducted interviews with appropriate personnel, observed licensed operations, conducted confirmatory measurements, and utilized good health physics practices. The inspectors held entrance and exit meetings with the appropriate level of licensee management. The review team determined that the inspections were adequate to assess radiological health, safety, and security at the licensed facilities.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that California's performance with respect to the indicator, Technical Quality of Inspections, be found satisfactory.

3.4 Technical Quality of Licensing Actions

The review team examined completed licensing casework and interviewed license reviewers for 34 specific licensing actions. Licensing actions were reviewed for completeness, consistency, proper radioisotopes and quantities, qualifications of authorized users, adequacy of facilities and equipment, adherence to good health physics practices, financial assurance, operating and emergency procedures, appropriateness of license conditions, and overall technical quality. The casework was also reviewed for timeliness, use of appropriate deficiency letters and cover letters, reference to appropriate regulations, supporting documentation, consideration of enforcement history, pre-licensing visits, peer/supervisory review, and proper signatures.

The licensing casework was selected to provide a representative sample of licensing actions completed during the review period. Licensing actions selected for evaluation included 3 new licenses, 4 renewals, 3 decommissioning or termination actions, 2 bankruptcy actions, and 22 amendments. Files reviewed included a cross-section of license types, including: broad scope, medical diagnostic and therapy, brachytherapy, industrial radiography, research and development, nuclear pharmacy, gauges, manufacturers, panoramic and self-shielded irradiators. The casework sample represented work from 23 license reviewers. A listing of the licensing casework evaluated is provided in Appendix D.

Overall, the review team found that the licensing actions were thorough, complete, consistent, and of high quality with health, safety, and security issues properly addressed. License tie-down conditions were stated clearly and were supported by information contained in the file. Deficiency letters clearly stated regulatory positions, were used at the proper time, and identified substantive deficiencies in the licensees' documents. Terminated licensing actions were well documented, showing appropriate transfer and survey records. All licensing actions are maintained in the Branch's electronic database and files. License reviewers use the Branch's licensing guides, policies, checklists, and standard license conditions, specific to the type of licensing actions, to ensure consistency in licenses.

Incoming actions are processed by the Special Projects Unit, which logs them in and delivers to the appropriate unit. Unit chiefs assign actions to the reviewers, who then take the actions for review. If other areas apply, such as financial assurance, increased controls or need for a pre-licensing visit, the action is forwarded to the appropriate person or group for additional review or

attention. Once completed, each licensing action undergoes a peer review before going to the Unit chief for final review and signature.

Licenses are issued for a ten-year period under a timely renewal system. The review team noted that the Branch's backlog for license renewals (pending greater than one year) had significantly increased over the review period. This has resulted in approximately 20 percent of licensees operating under timely renewal. The increase in the backlog for license renewals is largely attributed to the adoption of 10 CFR Part 35 and the corresponding medical licensing actions necessary to support the rule. In addition, license amendments issued for health and safety to address overdue regulations took priority over backlogged renewals. The review team, based on its assessment of the licensing program, believed safety was maintained through the amendment process and inspection program, in spite of the backlog. Branch management indicated that they intend to focus on the backlog and have a plan in place.

Based on the casework evaluated, the review team concluded that the licensing actions were of high quality and consistent with the NUREG-1556 guidance documents, the State's regulations, and good health physics practices. The review team attributed the consistent use of templates and quality assurance reviews to the overall quality noted in the casework reviews.

The Branch's pre-licensing review methods incorporate the essential elements of NRC's revised pre-licensing guidance to verify that the applicant will use requested radioactive materials as intended. All new licensees receive a pre-licensing site visit which includes an evaluation of the applicant's radiation safety and security programs prior to receipt of the initial license. In fact, the Branch performs pre-licensing checks of all significant licensing actions. This approach is more restrictive than NRC policy and requires significant resources to accomplish. Branch management indicated during the review that they were revising the pre-licensing procedures to align more closely to current NRC policy.

The review team examined the Branch's licensing practices regarding the Increased Controls and Fingerprinting Orders. The review team noted that the Branch uses legally binding license conditions that meet the criteria for implementing the Increased Controls Orders, including fingerprinting, as appropriate. The review team analyzed the Branch's methodology for identifying those licenses and found the rationale was thorough and accurate. The review team confirmed that license reviewers evaluated new license applications and license amendments using the same criteria. The Branch requires full implementation of the Increased Controls prior to issuance of a new license or license amendment that meets the established criteria.

The review team noted that sensitive, unclassified, non-safeguards information (SUNSI) related to security and Increased Controls, was properly controlled and protected to prevent unauthorized access in accordance with "Additional Guidance and Clarification Regarding the Review of the Control of Sensitive Information During Integrated Materials Performance Evaluation Program ([RCPD-11-005](#)).” The Branch does not mark documents as suggested by NRC Regulatory Issue Summary (RIS) 2005-31, "Control of Security-Related SUNSI Handled by Individuals, Firms, and Entities Subject to NRC Regulation of the Use of Source, Byproduct, and Special Nuclear Material," dated December 22, 2005. However, discussions with Branch management indicated that since all documents are withheld from public disclosure, the Branch felt this eliminated the need to further mark documents. The review team found this sufficient.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that California's performance with respect to the indicator, Technical Quality of Licensing Actions, be found satisfactory.

3.5 Technical Quality of Incident and Allegation Activities

In evaluating the effectiveness of the Branch's actions in responding to incidents and allegations, the review team examined the Branch's response to the questionnaire relative to this indicator, evaluated selected incidents reported for California in the Nuclear Material Events Database (NMED) against those contained in the Branch's files, and evaluated the casework for 20 radioactive materials incidents. A listing of the incident casework examined, with case-specific comments, may be found in Appendix E. The review team also evaluated the Branch's response to 19 allegations involving radioactive materials, including 17 allegations referred to the State by the NRC during the review period.

When the Branch is notified of an incident or allegation, the staff member who receives the notification records the information in a Form 5010, "Matter Requiring Investigation/Inspection." A supervisor assigns responsibility for initial response to incidents and allegations involving radioactive material, to a technical staff member. The Branch has comprehensive written procedures for handling investigations. Once the investigation is completed, a "Materials Investigation Closing Memo" is generated, signed off by the appropriate supervisor, and placed in the investigation file.

The incidents selected for review included the following categories: medical events, lost/stolen material, leaking sources, damaged equipment, and transportation. The review team determined that the Branch's response to incidents was complete and comprehensive. Initial responses were prompt and well-coordinated, and the level of effort was commensurate with the health and safety significance. The Branch dispatched inspectors for on-site investigations when appropriate and took suitable enforcement and follow-up actions. If the incident met the reportability thresholds, as established in the Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure [SA-300](#) "Reporting Material Events," the State notified the NRC Headquarters Operations Center and entered the information into NMED in a prompt manner. The NRC's contractor that runs the NMED database stated that California did an outstanding job in providing initial and follow-up information for inclusion in the database.

The review team identified 237 radioactive material incidents in NMED for California during the review period. The review team evaluated the Branch's timeliness of reporting incidents and found that all incidents are reported in the required time frame, following the Branch's receipt of notification from the licensees.

In evaluating the effectiveness of California's actions responding to allegations, the review team evaluated the casework for the 17 allegations referred to the State by the NRC, as well as the casework for two additional allegations reported directly to the State. The Branch evaluated each allegation and determined the proper level of response. The casework review indicated that the Branch took prompt and appropriate action in response to all concerns raised. All of the

allegations reviewed were appropriately closed, and appropriate parties were notified of the actions taken. The review team identified no performance issues from the review of the allegation casework.

The State has a Freedom of Information Act- equivalent law, the Public Records Act. The review team discussed the Branch's process for release of records under the Public Records Act and determined that the alleged's identities were adequately protected.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that California's performance with respect to the indicator, Technical Quality of Incident and Allegation Activities, be found satisfactory.

4.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State programs: (1) Compatibility Requirements, (2) Sealed Source and Device Evaluation Program, (3) Low-Level Radioactive Waste Disposal Program, and (4) Uranium Recovery Program. The NRC's Agreement with California does not relinquish regulatory authority for a uranium recovery program; therefore, only the first three non-common performance indicators applied to this review.

4.1 Compatibility Requirements

4.1.1 Legislation

California became an Agreement State on September 1, 1962. The statutory authority for the State's Radiation Control Program is found in Section 7.6 of the California Health and Safety Code. The Division is designated as the State's radiation control agency, and the Branch implements the radiation control program. The review team found that one piece of legislation was passed during the review period that will become effective in 2012. This legislation adds one additional step to the rule development process and requires a broader analysis of the economic impacts of rules being developed. The Branch is uncertain at this time how this State law will specifically affect their rule development process.

4.1.2 Program Elements Required for Compatibility

The State's regulations for control of radiation are located in Title 17 of the California Code of Regulations and apply to all ionizing radiation, whether emitted from radionuclides or devices. California requires a license for possession and use of all radioactive materials. The review team also determined that the State is not subject to sunset regulations.

The review team evaluated the Branch's response to the questionnaire relative to this indicator, reviewed the status of regulations required to be adopted by the State under the Commission's adequacy and compatibility policy, and verified the adoption of regulations with data obtained from the State Regulation Status sheet that FSME maintains.

A review of the State's rulemaking process revealed that the process can take well over 600 days from the time a draft rule is placed in the system to the final filing with the Secretary of

State. The rules then become effective in 30 days. The public, NRC, other State agencies, and all potentially impacted licensees and registrants are offered an opportunity to comment during the rulemaking review process. When a proposed rule is sent for public comment, it is also sent to NRC for a compatibility review. After resolution of any comments, the final rules are sent to the *California Register* as notification of adoption. Final rules are also sent to licensees and to the NRC.

With so much lead time required, the Branch must initiate its rulemaking process for those rules necessary for compatibility, immediately after NRC publishes its final rule, in order to meet the three-year compatibility requirement. This initiation of the rulemaking process and the timely drafting of regulations have been noted as an issue for the Branch since the 2004 IMPEP review, and continues to be an issue for the Branch in this review. The Branch only has one staff member assigned to regulation development, including both materials and x-ray regulations. When this staff member is working to develop x-ray regulations, rules necessary for materials compatibility are not being developed. This staffing issue, as illustrated earlier in this report, was discussed with Division managers who agreed to consider additional resources to alleviate this problem. Division managers stated at the MRB meeting that an additional regulations staff member would be in place by February 1, 2012.

The State reported they continue to make some progress on the regulation backlog. California processes rule packages by “Parts”, such as Part 20 or Part 35, instead of by amendments that cross over several Parts as is done during NRC rule promulgation.

The review team found that the State can also adopt regulations by reference, but noted that State regulations need to pass a criterion called clarity, where the regulation needs to be clear, difficult to misunderstand, and be stand-alone, requiring no additional guidance. The State has difficulty at times incorporating NRC rules by reference because NRC regulations tend to be performance-based, with implementing guidance available in another document. The State would need to make the requirement specific and incorporate some of the guidance information in its regulations for them to pass the clarity criterion.

At the time of the 2008 IMPEP review there were 14 overdue regulations. During the review period, the Branch completed ten amendments; nine of which were overdue at the time of their completion. Currently the Branch has 12 overdue regulations with an additional 3 regulations coming due for adoption in the near future. The review team noted at the time of the review that no new amendments were being prepared by the Branch for processing, and the regulation development staff member indicated with the current workload, that amendment packages would likely not be processed for some time, likely a year.

Current NRC policy requires that Agreement States adopt certain equivalent regulations or legally binding requirements no later than three years after they become effective. The following amendments are overdue, some significantly longer than three years from their effective date.

- “Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites],” 10 CFR Parts 30, and 40 amendments (58 FR 39628), that was due for Agreement State implementation on October 25, 1996.

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

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

- "Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations," 10 CFR Parts 30, 34, 71 and 150 amendments (62 FR 28947) that was due for Agreement State implementation on June 27, 2000.
- “Radiological Criteria for License Termination,” 10 CFR Parts 20, 30, 40, and 70 amendments (62 FR 39057), that was due for Agreement State implementation on August 20, 2000.

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. This amendment remains open.

- “Minor Corrections, Clarifying Changes, and a Minor Policy Change,” 10 CFR Parts 20, 32, 35, 36, and 39 amendments (63 FR 39477 and 63 FR 45393), that was due for Agreement State implementation on October 26, 2001.
- “Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material,” 10 CFR Parts 30, 31, and 32 amendments (65 FR 79162), that was due for Agreement State implementation on February 16, 2004.
- “Medical Use of Byproduct Material,” 10 CFR Parts 20, 32, and 35 amendments (67 FR 20249), that was due for Agreement State implementation on October 24, 2005.
- “Medical Use of Byproduct Material - Recognition of Specialty Boards,” 10 CFR Part 35 amendment (70 FR 16336 and 71 FR 1926), that was due for Agreement State implementation on April 29, 2008.
- “Minor Amendments,” 10 CFR Parts 20, 30, 32, 35, 40, and 70 amendments (71 FR 15005), that was due for Agreement State implementation by March 27, 2009.
- “Medical Use of Byproduct Material – Minor Corrections and Clarifications,” 10 CFR Parts 32 and 35 amendments (72 FR 45147, 72 FR 54207), that was due for Agreement State implementation by October 29, 2010.
- “Exemptions from Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements,” 10 CFR Parts 30, 31, 32, 150 amendments (72 FR 58473), that was due for Agreement States implementation by December 17, 2010.

- “Requirements for Expanded Definition of Byproduct Material,” 10 CFR Parts 20, 30, 31, 32, 33, 35, 61, and 150 amendments (72 FR 55864), that was due for Agreement State implementation by November 30, 2010.

The review team identified the following regulation changes and adoptions that will be needed in the future, and the State related that the regulations would be addressed in upcoming rulemaking or by adopting alternate legally binding requirements:

- “Medical Use of Byproduct Material – Authorized User Clarification,” 10 CFR Part 35 amendment (74 FR 33901), that is due for Agreement State implementation by September 28, 2012.
- “Decommissioning Planning,” 10 CFR Parts 20, 30, 40, and 70 amendments (76 FR 35512), that is due for Agreement State implementation by December 17, 2015.
- “Licenses, Certifications, and Approvals for Materials Licensees,” 10 CFR Parts 30, 36, 39, 40, 70, and 150 amendments (76 FR 56591), that is due for Agreement State implementation by November 14, 2014.

The review team also noted little progress on an issue noted during the 2008 review, and discussed with the Branch during subsequent Periodic Meetings and Monitoring calls. This involves the incompatibility of legislation found in Section 115261 of California’s “Health and Safety Code – Radiation Control Law” to NRC’s 10 CFR Part 61 with regard to low-level radioactive waste disposal. This incompatibility was initially noted in an amendment submission to NRC on June 25, 2007. At that time, NRC notified the State that their statute was more restrictive than 10 CFR 61.41, and therefore did not meet the Compatibility Category “A” designation assigned to the rule. To date, this compatibility issue has not been resolved. Branch supervisors were uncertain when this issue will be resolved.

Considering the continued number of overdue regulation changes and the lengthy process to complete regulation development, the review team was again not able to find that the California Agreement State Program was meeting the compatibility requirements as identified in the IMPEP evaluation criteria. As noted during previous reviews, the review team believes that additional time and resources will be needed before the State can adopt all overdue regulations required for compatibility.

At the time of the 2008 review, the team made a recommendation that the Branch develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility. The review team concluded that the Branch did develop and implement a general action plan for adoption of NRC regulations; however, the team believes that the Branch’s plan is not specific enough to transition them through the regulation development process in a timely manner. Therefore, the review team is modifying the previous recommendation to include greater specificity. The review team recommends that the State develop and implement a detailed action plan that fully documents actions, tasks, and milestones associated with each regulation package, to better track adoption of required regulations in accordance with the current NRC policy on adequacy and compatibility.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that California's performance with respect to the indicator, Compatibility Requirements, be found unsatisfactory.

4.2 Sealed Source and Device Evaluation Program

In reviewing this indicator, the review team used three subelements to evaluate the Branch's performance regarding the Sealed Source and Device (SS&D) Evaluation Program. The subelements are: (1) Technical Staffing and Training, (2) Technical Quality of the Product Evaluation Program, and (3) Evaluation of Defects and Incidents Regarding SS&Ds.

In assessing the Branch's SS&D evaluation activities, the review team examined information provided by the Branch in response to the IMPEP questionnaire for this indicator. The review team conducted a review of all new, amended, and inactivated SS&D evaluations and supporting documents covering the review period. The review team noted the staff's use of guidance documents and procedures, interviewed the staff involved in SS&D evaluations, and verified the use of regulations, license conditions, and inspections to enforce commitments made in the applications.

4.2.1 Technical Staffing and Training

The Branch has three individuals that are fully qualified SS&D reviewers with full signature authority to perform concurrence reviews. There are 12 other reviewers that are either partially qualified reviewers or are reviewers in training, and they have limited initial reviewer signature authority, in accordance with the Branch's documented training program. The supervisor assigning the SS&D reviews makes the assignments based on the extent of reviewer's training and experience relative to the complexity of the review required. The Branch uses the concurrence reviewer as the final technical quality reviewer.

The Branch's comprehensive training program is discussed in detail in Section 3.1 of this report. The Branch has a documented qualification program for SS&D reviewers as a subsection of its qualification procedure. The Branch maintains a qualification journal for all reviewers, which lists the completed course work relevant to SS&D evaluations.

The Branch had a list of 62 cases pending review. The breakdown of the cases is six amendments, 20 inactivations, and 36 transfer amendments from one manufacturer to another. The review team determined that the nature and number of open cases does not present a health and safety concern. The Branch has committed to assigning appropriate staff to clear out the backlog of cases.

The review team determined that the staffing level dedicated to performing SS&D evaluations is adequate.

4.2.2 Technical Quality of the Product Evaluation Program

During the review period, the Branch completed 92 SS&D actions, which included one new source and device evaluation, with the balance evenly split between amendments of previously issued registrations, and inactivations of registration certificates. The casework reviewed

included 21 of these actions. The cases selected for review were chosen to be representative of the work performed by the Branch during the review period, taking the following factors into account: the types of actions performed; the pool of licensees; the types of products evaluated; and the different reviewers who performed SS&D evaluations. A listing of the SS&D certificates evaluated, with case-specific comments, can be found in Appendix F.

Analysis of the casework and interviews with the staff confirmed that the Branch follows the recommended guidance from the NRC SS&D training workshops and NUREG-1556, Volume 3, Revision 1, "Consolidation Guidance About Materials Licenses: Application for Sealed Source and Device Evaluation and Registration." The Branch used appropriate review checklists to ensure all relevant materials were submitted and reviewed. The review team verified that pertinent American National Standards Institute standards, Regulatory Guides, and applicable references were available and were used when Branch staff performed SS&D reviews.

The review team noted some administrative issues and practices that differ from those used in the SS&D community in general. These issues and practices were shared with Branch staff members. The review team noted that safety issues were not affected by any of these administrative issues and practices.

The review team noted that typed names were used in lieu of handwritten signatures on the SS&D registrations. A Branch supervisor had an informal email from their legal representative indicating that the typed signature was acceptable for electronic documents.

The review team noted in registration number CA-406-S-238-S for a line source that the registration did not indicate how the singly vs. doubly or triply encapsulated sealed sources could be distinguished from one another. The issue being that the singly encapsulated sealed source is not robust enough to be used in the gamma gauge applications, as is with the double and triple encapsulated sources. Once this was brought to the Branch's attention, they committed to contacting the vendor to clarify the issue.

The review team determined that the registration files contained all correspondence, photographs, engineering drawings, radiation profiles, and details of the applicant's quality assurance and quality control program. The registrations clearly summarized the product evaluation to provide license reviewers with adequate information to license the possession and use of the product. Deficiency letters clearly stated regulatory positions and all health and safety issues were properly addressed. The review team found that the evaluations were of high quality with health and safety issues properly addressed.

4.2.3 Evaluation of Defects and Incidents Regarding SS&Ds

The review team examined a selected sample of incidents or failures regarding SS&D registered products that occurred during the review period. The review team examined incidents that occurred within the State of California, as well as incidents nationwide that occurred within the review period involving equipment or sources registered by the Branch. The review team determined that the Branch followed their procedures, analyzed the events and evaluated the issues, followed up on the incidents that were relevant to SS&D issues, and documented the issues.

The review team evaluated the Branch's response to three separate event or allegation issues regarding a high dose rate remote afterloader. These included sources sticking in the unit during servicing, transfer guide tube length changes, and failure of an extension adapter during prostate treatment. The review team determined the incident investigations were complete, thorough, and fully addressed the issues.

The review team also analyzed the Branch's response to multiple incidents involving a radiography camera in which the locking mechanism prematurely tripped and locked the source outside of the secured (safe) position. Based on the Branch's root cause analysis, the manufacturer revised the device instruction manual and the Branch issued an information notice regarding user maintenance issues. The review team identified design issues that the Branch's initial investigation did not address, such as a potential device modification to alleviate malfunction causative factors. During the review, the Branch reopened the investigation and contacted the manufacturer to schedule a meeting to address the additional design issues at the manufacturer's facility.

The Branch's evaluation of defects and incidents regarding sealed source and device registrations were resolved in accordance with the regulatory requirements and the relevant guidance documents and procedures. In cases affecting other Agreement States or the NRC, the Branch took the appropriate action to contact the States or the NRC and requested follow-up action.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that California's performance with respect to the indicator, Sealed Source and Device Evaluation Program, be found satisfactory.

4.3 Low-level Radioactive Waste Disposal Program

In 1981, the NRC amended its Policy Statement, "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement," to allow a State to seek an amendment for the regulation of LLRW as a separate category. Although the California Agreement State Program has LLRW disposal authority, the NRC has not required States to have a program for licensing a LLRW disposal facility until such time as the State has been designated as a host State for a LLRW disposal facility. When an Agreement State has been notified or becomes aware of the need to regulate a LLRW disposal facility, they are expected to put in place a regulatory program which will meet the criteria for an adequate and compatible LLRW disposal program. There are no plans for a LLRW disposal facility in California. Accordingly, the review team did not review this indicator.

5.0 SUMMARY

As noted in Sections 3.0 and 4.0 above, California's performance was found unsatisfactory for the indicator, Compatibility Requirements, and satisfactory for the remaining performance indicators reviewed. The review team modified a recommendation from the 2008 IMPEP review regarding the timely promulgation of regulations.

Accordingly, the review team recommended, and the MRB agreed, that the California Agreement State Program is adequate to protect public health and safety, and not compatible with NRC's program. The review team also recommended, and the MRB agreed, that the period of Monitoring currently in place for California, be continued until significant progress is made in the regulation promulgation process.

The review team recommended, and the MRB agreed, that the next IMPEP review take place in approximately four years, with a Periodic Meeting scheduled in one year from the date of the MRB meeting and an additional Periodic Meeting in approximately 2.5 years.

The current review team recommendation, modified from the 2008 IMPEP review, is as follows:

The review team recommended, and the MRB agreed, that the State develop and implement a detailed action plan that fully documents actions, tasks, and milestones associated with each regulation package, to better track adoption of required regulations in accordance with the current NRC policy on adequacy and compatibility.

LIST OF APPENDICES

Appendix A	IMPEP Review Team Members
Appendix B	California Organization Charts
Appendix C	Inspection Casework Reviews
Appendix D	License Casework Reviews
Appendix E	Incident Casework Reviews
Appendix F	Sealed Source and Device Casework Reviews

APPENDIX A

IMPEP REVIEW TEAM MEMBERS

Name	Area of Responsibility
Jim Lynch, Region III	Team Leader Technical Quality of Incident & Allegation Activities Inspector Accompaniments
Randy Erickson, Region IV	Technical Staffing and Training Compatibility Requirements Inspector Accompaniments
Vanessa Cox, FSME	Status of Materials Inspection Program
Bryan Parker, Region I	Technical Quality of Licensing Actions
David Turberville, Alabama	Technical Quality of Inspections
Karl Von Ahn, Ohio	Sealed Source and Device Evaluation Program

APPENDIX B

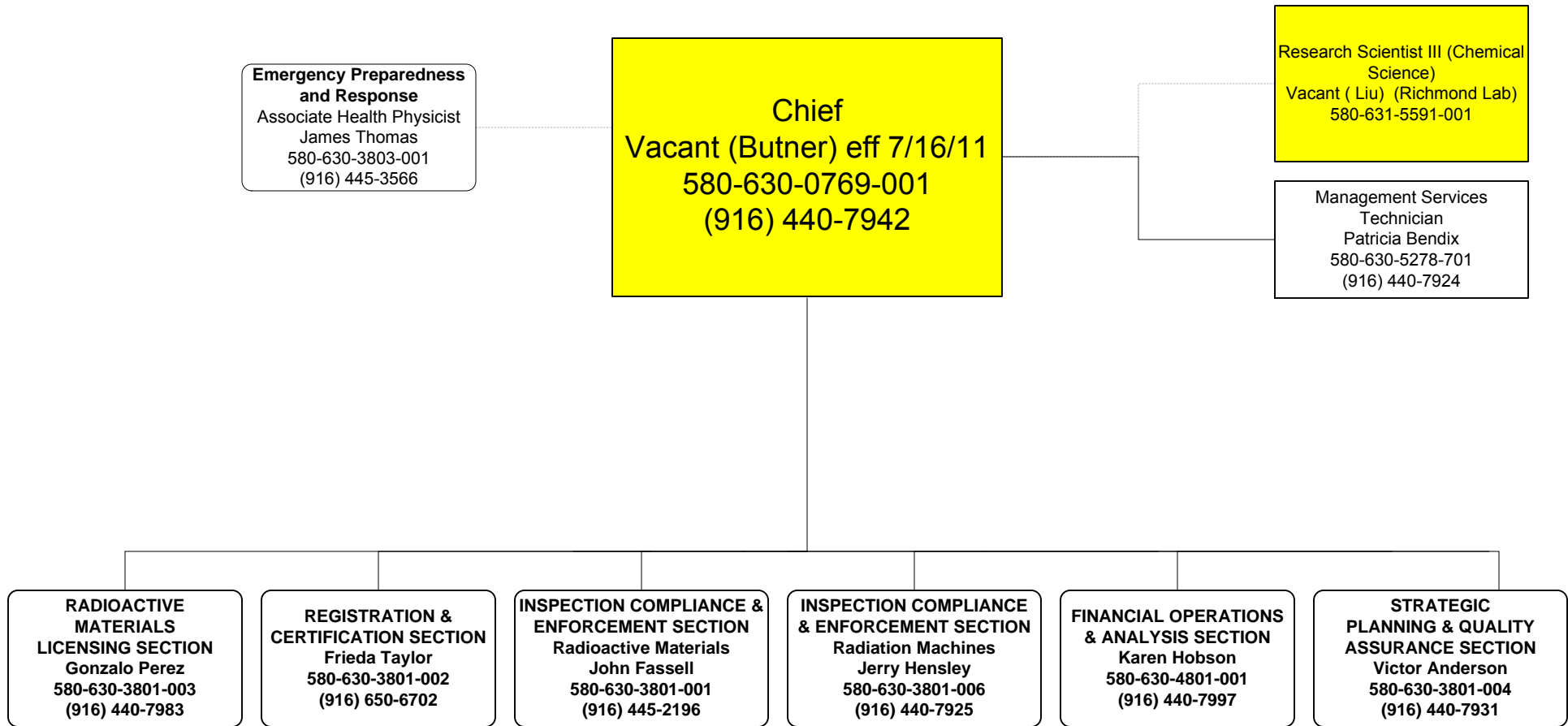
CALIFORNIA ORGANIZATION CHARTS

ADAMS ACCESSION NO.: ML112790126



**California Department of Public Health
Center for Environmental Health
Division of Food, Drug, and Radiation Safety
Radiologic Health Branch**

CURRENT
Effective 9/2011



Approved:

Gonzalo L. Perez, Acting Branch Chief, Radiologic Health Branch

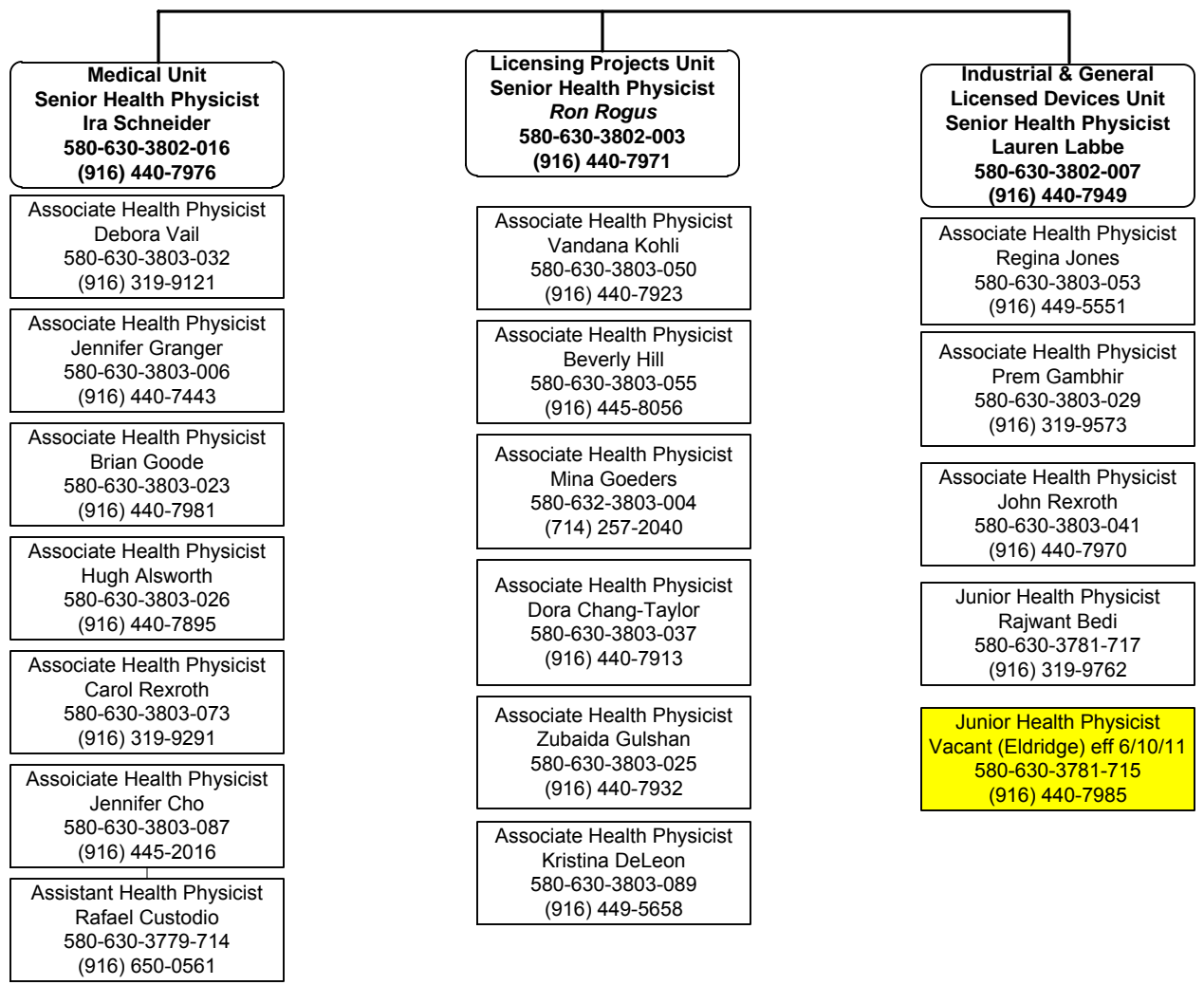
Stephen A. Woods, Division Chief, Division of Food, Drug, and Radiation Safety



California Department of Public Health
Center for Environmental Health
Division of Food, Drug, and Radiation Safety
Radiologic Health Branch
Radioactive Materials Licensing Section



Supervising Health Physicist
Gonzalo Perez
580-630-3801-003
(916) 440-7983



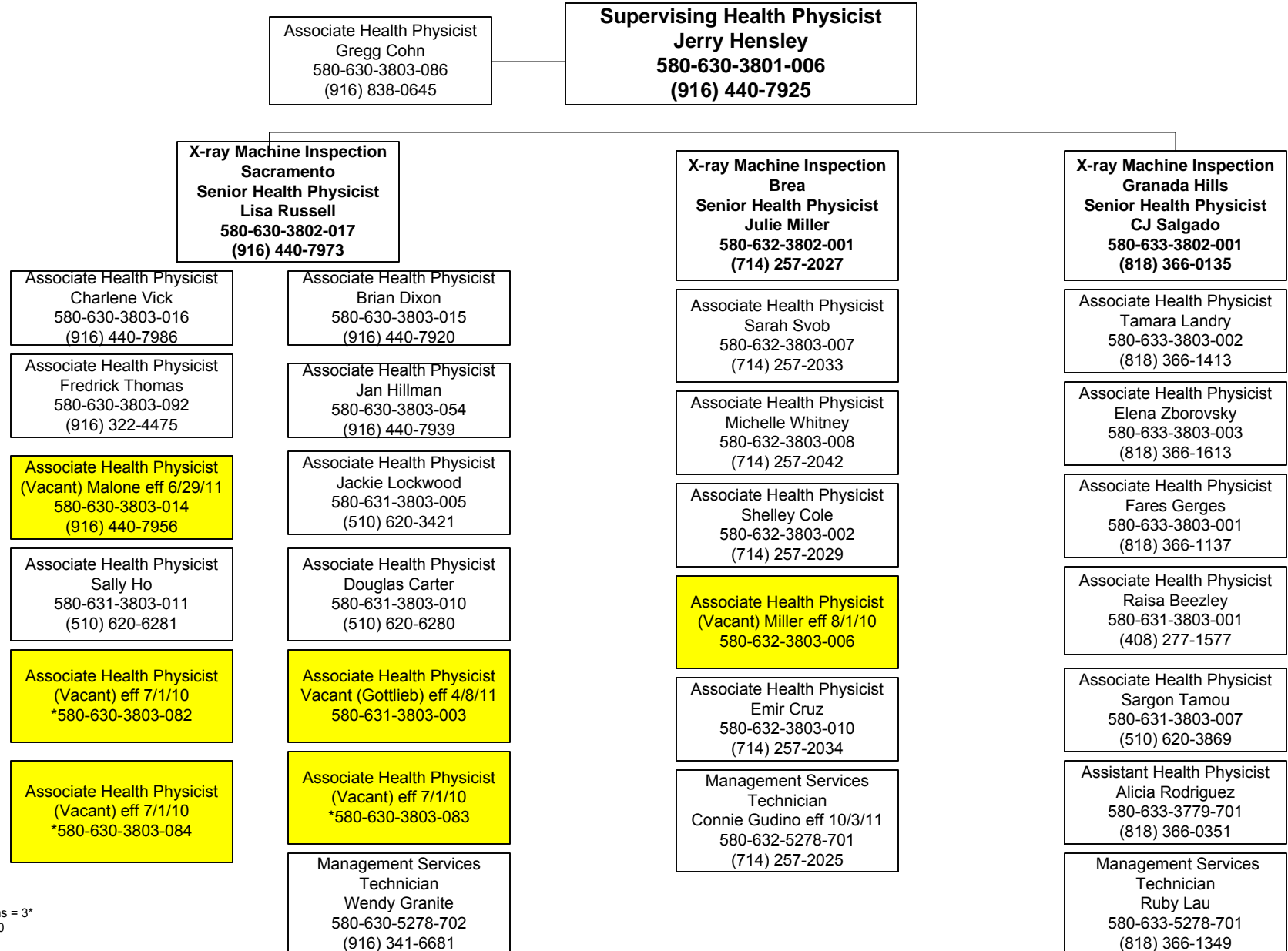
RML
 Perm positions = 22
 Retired annuitants = 0



California Department of Public Health Center for Environmental Health Division of Food, Drug, and Radiation Safety Radiologic Health Branch



Inspection, Compliance and Enforcement Section, Radiation Machines



ICE, Xray

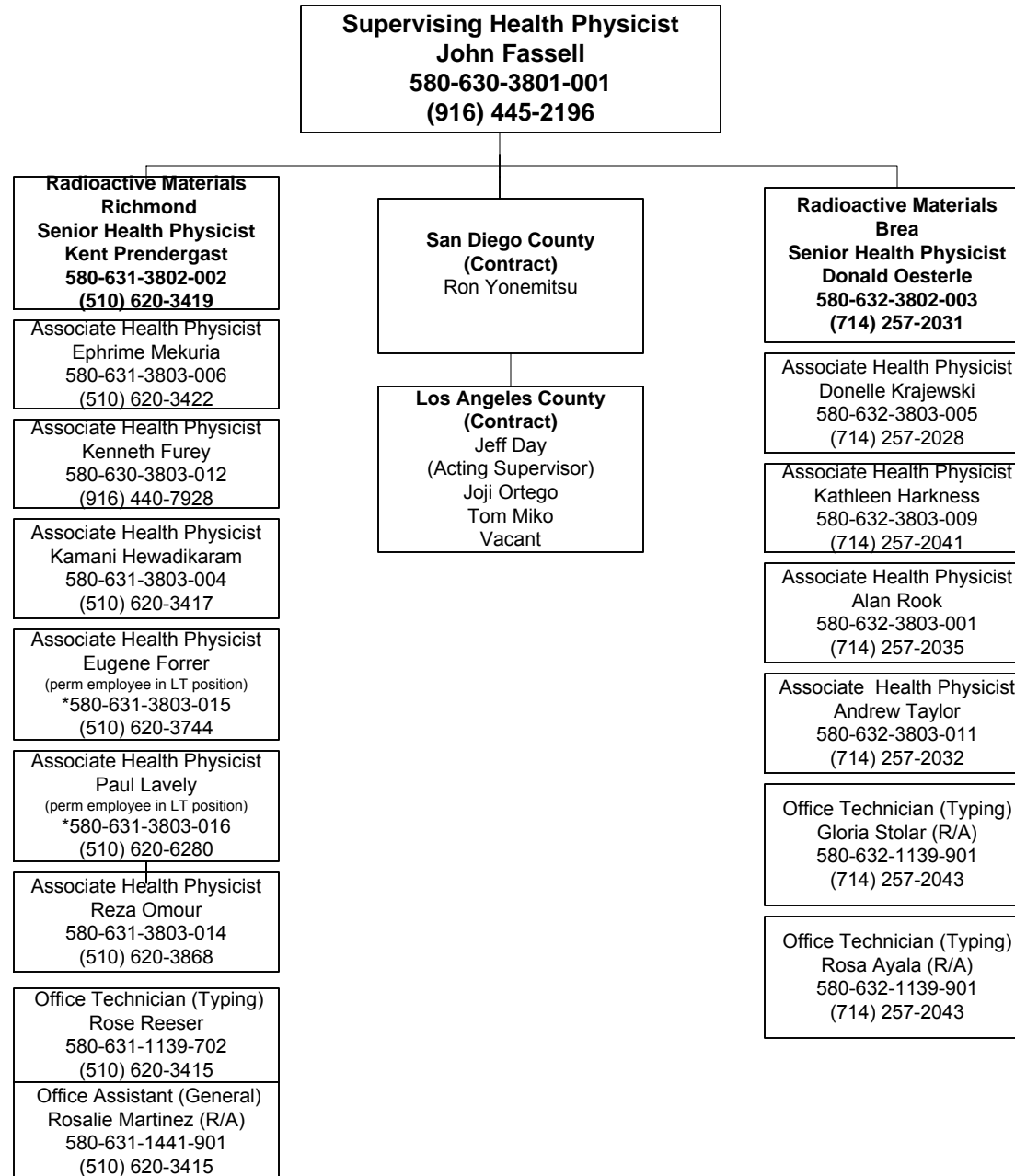
Perm positions = 28
Limited Term positions = 3*
Retired annuitants = 0

*LT positions to expire 6/30/12



**California Department of Public Health
Center for Environmental Health
Division of Food, Drug, and Radiation Safety
Radiologic Health Branch**

Inspection, Compliance and Enforcement Section, Radioactive Materials



ICE, RAM

Perm positions = 12
Limited Term Positions = 2*
Retired annuitants (R/A) = 3

*LT positions to expire 6/30/12

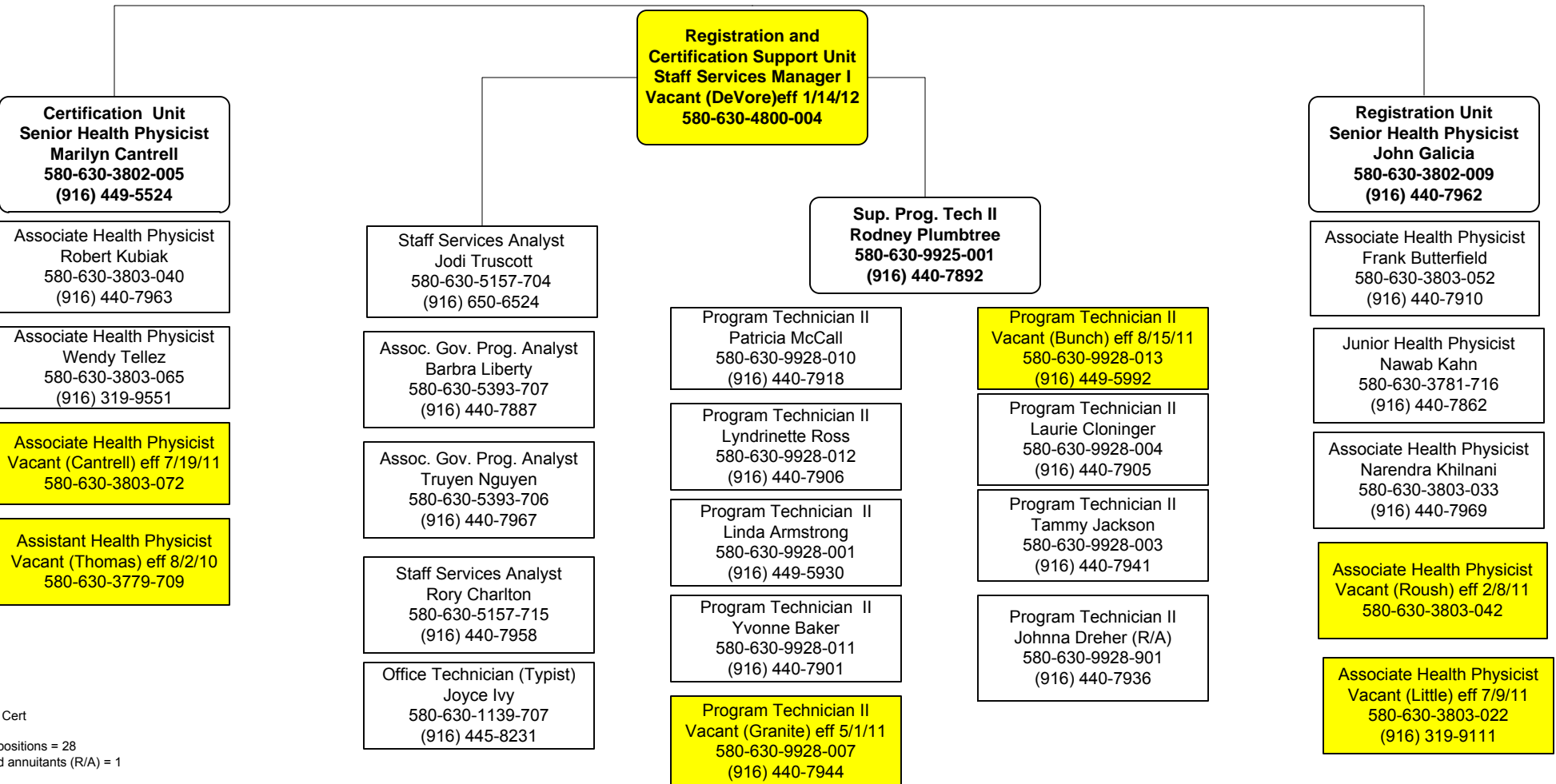


California Department of Public Health Center for Environmental Health Division of Food, Drug, and Radiation Safety Radiologic Health Branch Registration and Certification Section



**Supervising Health Physicist
Frieda Taylor
580-630-3801-002
(916) 650-6702**

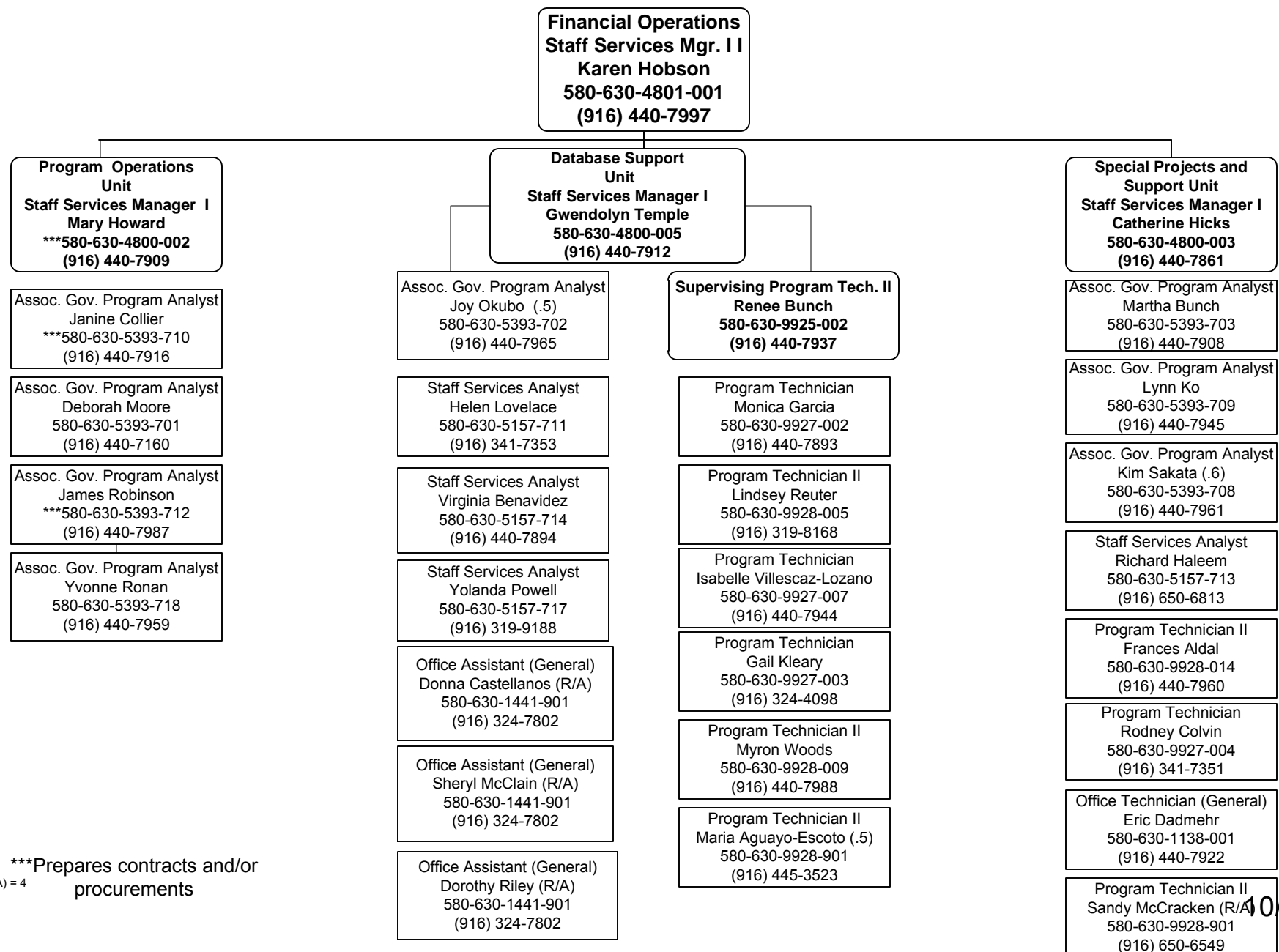
Office Technician (Typing)
Vacant (Truscott) eff 4/1/11
580-630-1139-706



Reg & Cert
Perm positions = 28
Retired annuitants (R/A) = 1



**California Department of Public Health
Center for Environmental Health
Division of Food, Drug, and Radiation Safety
Radiologic Health Branch
Financial Operations and Analysis Section**



FOA

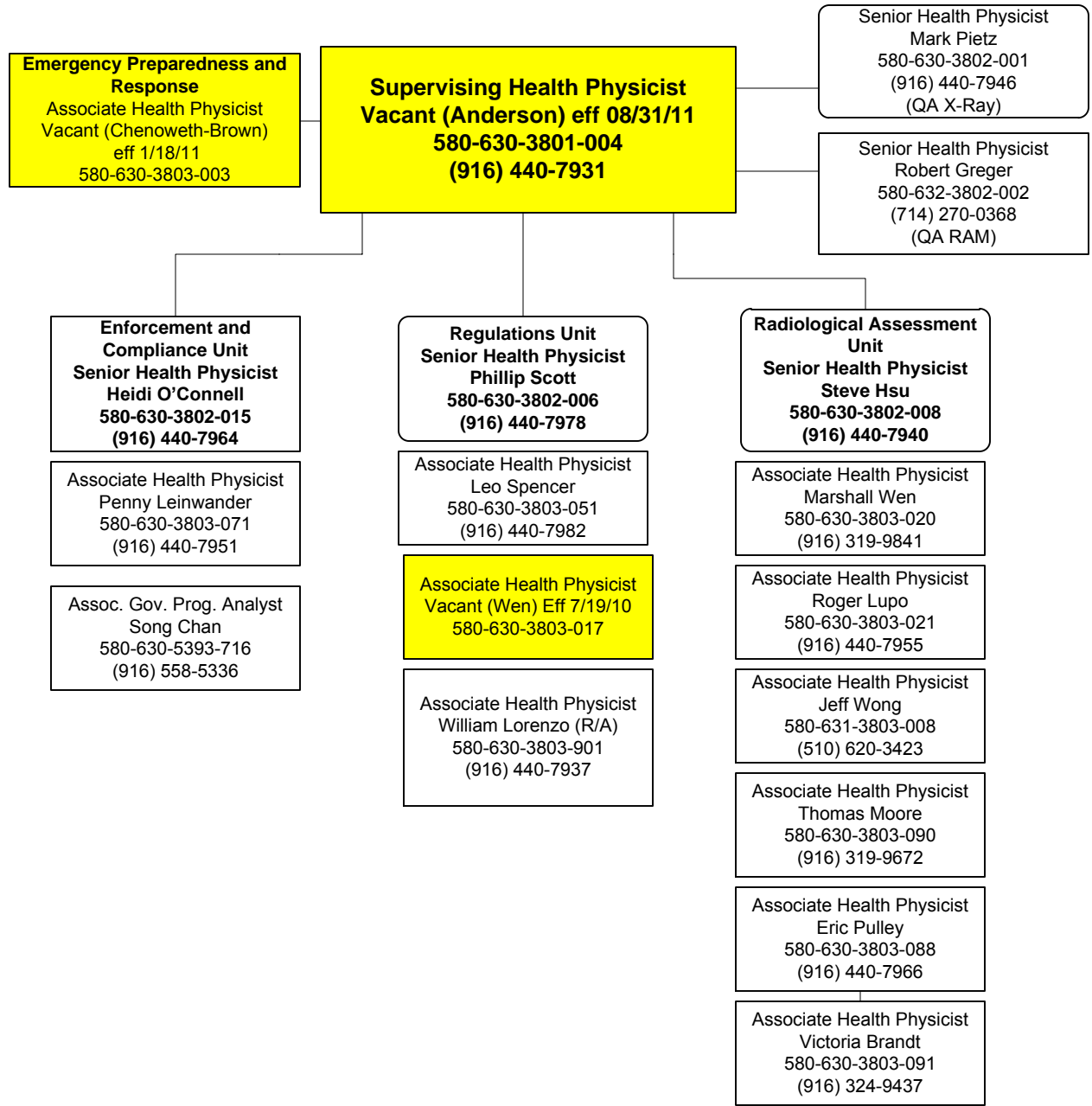
Perm positions = 25
Retired annuitants (R/A) = 4
Blanket positions = 1

*****Prepares contracts and/or procurements**

10/6/2011



California Department of Public Health
Center for Environmental Health
Division of Food, Drug, and Radiation Safety
Radiologic Health Branch
Strategic Planning & Quality Assurance Section



SP&QA

Perm positions = 17
Retired annuitants (R/A) = 1

APPENDIX C

INSPECTION CASEWORK REVIEWS

NOTE: CASEWORK LISTED WITHOUT COMMENT IS INCLUDED FOR COMPLETENESS.

File No.: 1
Licensee: Cardinal Health
Inspection Type: Routine, Unannounced
Inspection Date: 8/26/10
License No.: 6925-19
Priority: 2
Inspectors: DK, JD

File No.: 2
Licensee: Cardinal Health
Inspection Type: Routine, Unannounced
Inspection Date: 8/26/10
License No.: 3822-19
Priority: 2
Inspector: DK

File No.: 3
Licensee: Kaiser Permanente Medical Center
Inspection Type: Routine, Announced
Inspection Date: 9/15/11
License No.: 3653-21
Priority: 3
Inspector: KAH

File No.: 4
Licensee: Geo Environ
Inspection Type: Routine, Unannounced
Inspection Date: 3/3/11
License No.: 6636-30
Priority: 5
Inspector: AR

File No.: 5
Licensee: Industrial Nuclear Co., Inc.
Inspection Type: Routine, Unannounced
Inspection Date: 5/10/11
License No.: 2229-01
Priority: 2
Inspector: KAH

File No.: 6
Licensee: Seton Medical Center
Inspection Type: Routine, Unannounced
Inspection Dates: 4/28-5/3/11
License No.: 1391-41
Priority: 2
Inspector: GF

File No.: 7
Licensee: Triad Isotopes, Inc.
Inspection Type: Routine, Unannounced
Inspection Date: 6/2/11
License No.: 3219-19
Priority: 2
Inspector: JD

Comment: Inspector determined to be not qualified to perform inspection.

File No.: 8
Licensee: Qal-Tek Associates
Inspection Type: Routine, Announced - Reciprocity
Inspection Date: 3/28/11
License No.: NRC 11-27610-01
Priority: 3
Inspector: RO

File No.: 9

Licensee: TechCorr Inspection & Engineering
Inspection Type: Routine, Unannounced - Reciprocity
Inspection Date: 7/14/10

License No.: NRC 42-29261-01
Priority: 1
Inspector: AT

File No.: 10

Licensee: University of the Pacific
Inspection Type: Routine, Unannounced
Inspection Date: 1/7/11

License No.: 0840-39
Priority: 3
Inspector: KF

File No.: 11

Licensee: Southern California Edison
Inspection Type: Routine, Announced
Inspection Dates: 6/9-15/11

License No.: 5244-30
Priority: 1
Inspector: KH

File No.: 12

Licensee: Corona Regional Medical Center
Inspection Type: Routine, Announced
Inspection Date: 4/20/11

License No.: 1550-33
Priority: 3
Inspector: KH

File No.: 13

Licensee: TC Inspection, LLC
Inspection Type: Routine, Unannounced
Inspection Dates: 6/15-7/11/11

License No.: 5299-07
Priority: 1
Inspector: RO

File No.: 14

Licensee: San Diego Gamma Knife Center
Inspection Type: Routine, Unannounced
Inspection Dates: 3/9-13/11

License No.: 6072-37
Priority: 2
Inspector: RY

File No.: 15

Licensee: Mercy Imaging Center
Inspection Type: Initial, Unannounced
Inspection Date: 1/4/11

License No.: 7809-34
Priority: 3
Inspector: KF

File No.: 16

Licensee: Medi-Physics, Inc.
Inspection Type: Routine, Unannounced
Inspection Date: 3/11/11

License No.: 5796-37
Priority: 2
Inspector: RY

File No.: 17

Licensee: Newport Imaging Center
Inspection Type: Routine, Unannounced
Inspection Date: 4/28/11

License No.: 7144-30
Priority: 3
Inspector: AT

File No.: 18

Licensee: CY Geotech, Inc.
Inspection Type: Routine, Announced
Inspection Date: 5/12/11

License No.: 6617-19
Priority: 5
Inspector: AR

File No.: 19

Licensee: City of Alameda Health Care District
Inspection Type: Routine, Announced
Inspection Dates: 10/29-11/4/10

License No.: 1948-01
Priority: 3
Inspector: EM

File No.: 20

Licensee: CA Foundation for Health
Inspection Type: Routine, Unannounced
Inspection Date: 11/29/10

License No.: 4000-15
Priority: 3
Inspector: AT

File No.: 21

Licensee: Pengo Wireline of California
Inspection Type: Routine, Unannounced
Inspection Date: 11/18/10

License No.: 3943-15
Priority: 3
Inspector: KF

File No.: 22

Licensee: Rapiscan Laboratories
Inspection Type: Routine, Unannounced
Inspection Date: 1/3/11

License No.: 2484-43
Priority: 3
Inspector: GF

File No.: 23

Licensee: Prime Health Care Management
Inspection Type: Routine, Unannounced
Inspection Dates: 2/1-3/11

License No.: 0940-19
Priority: 3
Inspector: JO

File No.: 24

Licensee: Golden Empire Cardiology
Inspection Type: Routine, Unannounced
Inspection Date: 11/17/10

License No.: 7456-15
Priority: 5
Inspector: AT

File No.: 25

Licensee: Radiocat, Inc.
Inspection Type: Routine, Unannounced
Inspection Date: 6/15/10

License No.: 7255-41
Priority: 5
Inspector: PL

File No.: 26

Licensee: North Oaks Radiation Center
Inspection Type: Routine, Unannounced
Inspection Date: 3/22/10

License No.: 3693-56
Priority: 2
Inspector: DA

File No.: 27

Licensee: Halliburton Energy Services, Inc.
Inspection Type: Routine, Announced
Inspection Date: 12/10/10

License No.: 6481-57
Priority: 3
Inspector: EM

File No.: 28

Licensee: Beverly Oncology and Imaging Centers Medical Group, Inc.
Inspection Type: Routine, Unannounced
Inspection Date: 12/13/10

License No.: 3666-19
Priority: 3
Inspectors: JO, JD

File No.: 29

Licensee: North American Scientific
Inspection Type: Special, Announced - Decommissioning
Inspection Dates: 12/15/09 - 1/27/10

License No.: 5537-19
Priority: 2
Inspector: RL

INSPECTOR ACCOMPANIMENTS

The following inspector accompaniments were performed prior to the on-site IMPEP review:

Accompaniment No.: 1

Licensee: IsoRx
Inspection Type: Routine, Unannounced
Inspection Date: 9/12/11

License No.: 6264-38
Priority: 2
Inspector: EF

Accompaniment No.: 2

Licensee: Mistras Group, Inc.
Inspection Type: Special, Unannounced
Inspection Date: 9/13/11

License No.: 4886-48
Priority: 1
Inspector: EM

Accompaniment No.: 3

Licensee: Washington Hospital
Inspection Type: Special, Unannounced
Inspection Date: 9/14/11

License No.: 1585-01
Priority: 2
Inspector: RO

Accompaniment No.: 4

Licensee: Kaiser Permanente
Inspection Type: Routine, Announced
Inspection Date: 9/15/11

License No.: 3653-21
Priority: 3
Inspector: NH

Accompaniment No.: 5

Licensee: St. Helena Hospital
Inspection Type: Routine, Announced
Inspection Date: 9/16/11

License No.: 3653-21
Priority: 3
Inspector: KF

Accompaniment No.: 6

Licensee: Vertex Pharmaceuticals
Inspection Type: Routine, Announced
Inspection Date: 9/26/11

License No.: 6336-37
Priority: 5
Inspector: RY

Accompaniment No.: 7

Licensee: Sterigenics US, LLC
Inspection Type: Routine, Announced
Inspection Date: 9/27/11

License No.: 5956-33
Priority: 2
Inspector: DK

Accompaniment No.: 8

Licensee: Davis Laboratories, Inc.
Inspection Type: Special, Announced
Inspection Date: 9/28/11

License No.: 3951-30
Priority: 1
Inspector: AT

Accompaniment No.: 9

Licensee: West Hills Hospital & Medical Center
Inspection Type: Routine, Unannounced
Inspection Date: 9/29/11

License No.: 1388-19
Priority: 3
Inspector: JO

APPENDIX D

LICENSE CASEWORK REVIEWS

NOTE: CASEWORK LISTED WITHOUT COMMENT IS INCLUDED FOR COMPLETENESS.

File No.: 1
Licensee: St. Francis Memorial Hospital
Type of Action: Amendment
Date Issued: 11/25/09
License No.: 0115-38
Amendment No.: 68
License Reviewer: JH

File No.: 2
Licensee: El Camino Hospital
Type of Action: Amendment
Date Issued: 9/2/08
License No.: 0312-43
Amendment No.: 86
License Reviewer: IS

File No.: 3
Licensee: Chevron USA Product Co.
Type of Action: Amendment
Date Issued: 11/13/08
License No.: 0490-07
Amendment No.: 57
License Reviewer: BB

File No.: 4
Licensee: L-3 Communications
Type of Action: Amendment
Date Issued: 5/4/11
License No.: 0553-01
Amendment No.: 63
License Reviewer: TE

File No.: 5
Licensee: University of Redlands
Type of Action: Amendment (Decommissioning)
Date Issued: 10/22/09
License No.: 0824-36
Amendment No.: 17
License Reviewer: JG

File No.: 6
Licensee: El Camino Hospital – Los Gatos
Type of Action: Amendment
Date Issued: 7/22/09
License No.: 1670-43
Amendment No.: 50
License Reviewer: PL

File No.: 7
Licensee: Cemex, Inc.
Type of Action: Amendment
Date Issued: 9/9/11
License No.: 1947-44
Amendment No.: 22
License Reviewer: KD

File No.: 8
Licensee: University of California – San Diego
Type of Action: Renewal
Date Issued: 7/7/11
License No.: 1339-37
Amendment No.: 112
License Reviewers: IS, JG

File No.: 9

Licensee: Parkview Community Hospital
Type of Action: Amendment
Date Issued: 2/23/11

License No.: 2082-33
Amendment No.: 49
License Reviewer: BG

File No.: 10

Licensee: Victor Valley Community Hospital
Type of Action: Amendment
Date Issued: 7/20/11

License No.: 2236-36
Amendment No.: 43
License Reviewer: JC

File No.: 11

Licensee: MHM, Inc.
Type of Action: Amendment
Date Issued: 8/2/11

License No.: 2336-58
Amendment No.: 13
License Reviewer: RB

File No.: 12

Licensee: Palmdale Regional Medical Center
Type of Action: Amendment
Date Issued: 6/3/11

License No.: 2649-19
Amendment No.: 32
License Reviewer: CR

File No.: 13

Licensee: Philips Medical Systems, Inc.
Type of Action: Amendment
Date Issued: 3/24/11

License No.: 2760-43
Amendment No.: 48
License Reviewer: ZG

File No.: 14

Licensee: Philips Medical Systems, Inc.
Type of Action: Amendment
Date Issued: 1/6/09

License No.: 2760-43
Amendment No.: 47
License Reviewer: LL

File No.: 15

Licensee: Radiation Oncology Medical Group of So. Cal.
Type of Action: Amendment
Date Issued: 6/1/11

License No.: 2833-30
Amendment No.: 28
License Reviewer: RC

File No.: 16

Licensee: Consolidated Testing Labs
Type of Action: Amendment
Date Issued: 2/18/10

License No.: 3277-54
Amendment No.: 20
License Reviewer: BH

File No.: 17

Licensee: Sterigenics US, LLC
Type of Action: Amendment
Date Issued: 12/19/08

License No.: 3390-30
Amendment No.: 45
License Reviewer: RR

File No.: 18

Licensee: Geocon, Inc.
Type of Action: Amendment
Date Issued: 3/12/09

License No.: 3924-37
Amendment No.: 25
License Reviewer: BH

File No.: 19

Licensee: Western University of Health Sciences
Type of Action: Amendment
Date Issued: 10/20/10

License No.: 4288-31
Amendment No.: 31
License Reviewer: PG

File No.: 20

Licensee: Western University of Health Sciences
Type of Action: Renewal
Date Issued: 6/18/08

License No.: 4288-31
Amendment No.: 30
License Reviewer: FT

File No.: 21

Licensee: Western Industrial X-Ray, Inc.
Type of Action: Amendment
Date Issued: 4/23/09

License No.: 4424-48
Amendment No.: 42
License Reviewer: LL

File No.: 22

Licensee: Kaiser Foundation Hospital
Type of Action: Amendment
Date Issued: 11/2/09

License No.: 4484-34
Amendment No.: 23
License Reviewer: HA

File No.: 23

Licensee: Cardinal Health
Type of Action: Amendment
Date Issued: 3/30/09

License No.: 4999-30
Amendment No.: 61
License Reviewer: DV

File No.: 24

Licensee: California Steel Industries, Inc.
Type of Action: Amendment
Date Issued: 4/6/11

License No.: 4485-36
Amendment No.: 15
License Reviewer: HA

File No.: 25

Licensee: AMEC Geomatrix, Inc.
Type of Action: Amendment
Date Issued: 11/1/10

License No.: 4768-01
Amendment No.: 20
License Reviewer: RB

File No.: 26

Licensee: Moore Twining Associates
Type of Action: New
Date Issued: 4/16/09

License No.: 7765-33
Amendment No.: 0
License Reviewer: DC

File No.: 27

Licensee: Orange Co. Comprehensive Radiation Oncology Ctr.
Type of Action: New
Date Issued: 2/8/10

License No.: 7791-30
Amendment No.: 0
License Reviewer: HA

File No.: 28

Licensee: AHMC International Cancer Center
Type of Action: New
Date Issued: 8/8/11

License No.: 7886-19
Amendment No.: 0
License Reviewer: BG

File No.: 29

Licensee: Libertytown USA 2, Inc.
Type of Action: Renewal
Date Issued: 7/29/10

License No.: 4182-15
Amendment No.: 92
License Reviewer: JR

File No.: 30

Licensee: Northern California Veterinary Specialists
Type of Action: Termination (Bankruptcy)
Date Issued: 4/5/11

License No.: 6417-34
Amendment No.: 7
License Reviewer: JR

File No.: 31

Licensee: Spansion, LLC
Type of Action: Amendment (Bankruptcy)
Date Issued: 3/30/10

License No.: 7631-43
Amendment No.: 1
License Reviewer: RJ

File No.: 32

Licensee: Acadia Pharmaceuticals, Inc.
Type of Action: Renewal
Date Issued: 6/26/09

License No.: 6451-37
Amendment No.: 14
License Reviewer: PG

File No.: 33

Licensee: Hitachi Chemical Research
Type of Action: Termination
Date Issued: 8/4/10

License No.: 5524-30
Amendment No.: 16
License Reviewer: PG

File No.: 34

Licensee: Cardinal Health
Type of Action: Termination
Date Issued: 3/7/11

License No.: 5910-50
Amendment No.: 23
License Reviewer: JG

APPENDIX E

INCIDENT CASEWORK REVIEWS

NOTE: CASEWORK LISTED WITHOUT COMMENT IS INCLUDED FOR COMPLETENESS.

File No.: 1

Licensee: STERIS, Inc.

Date of Incident: 9/16/08

Investigation Date: 9/16/08

License No.: 6666-36

NMED Log No.: 080567

Type of Incident: Damaged Equipment

Type of Investigation: Telephone.

File No.: 2

Licensee: Schlumberger Technology Corporation

Date of Incident: 4/11/08

Investigation Date: 4/29/08

License No.: 0144-15

NMED Log No.: 080295

Type of Incident: Abandoned Source

Type of Investigation: Letter

File No.: 3

Licensee: Mission Hospital Regional Medical Center

Date of Incident: 6/10/11

Investigation Date: 6/14/11

License No.: 2278-30

NMED Log No.: 110302

Type of Incident: Medical Event

Type of Investigation: Telephone

File No.: 4

Licensee: General Atomics

Date of Incident: 8/19/10

Investigation Date: 8/19/10

License No.: 0145-37

NMED Log No.: 100446

Type of Incident: Damaged Sources

Type of Investigation: Site

File No.: 5

Licensee: ProTechnics

Date of Incident: 10/10/10

Investigation Date: 11/15/10

License No.: 6387-15

NMED Log No.: 110115

Type of Incident: Abandoned Sources

Type of Investigation: Telephone

File No.: 6

Licensee: Sutter General Hospital

Date of Incident: 6/17/10

Investigation Date: 6/18/10

License No.: 2964-34

NMED Log No.: 100320

Type of Incident: Medical Event

Type of Investigation: Telephone

File No.: 7

Licensee: General Nucleonics, Inc.

Date of Incident: 10/6/08

Investigation Date: 10/23/08

License No.: 1288-19

NMED Log No.: 080861

Type of Incident: Leaking Source

Type of Investigation: Telephone

File No.: 8

Licensee: Siemens Medical Solutions
Date of Incident: 1/27/09
Investigation Date: 4/20/09

License No.: 0218-19
NMED Log No.: 090379
Type of Incident: Lost Sources
Type of Investigation: Site

File No.: 9

Licensee: Regents of the University of California, Los Angeles
Date of Incident: 5/8/09
Investigation Date: 5/8/09

License No.: 1335-19
NMED Log No.: 090486
Type of Incident: Lost Sources
Type of Investigation: Telephone

File No.: 10

Licensee: J. L. Shepherd & Associates
Date of Incident: 1/18/10
Investigation Date: 1/19/10

License No.: 1777-19
NMED Log No.: 100058
Type of Incident: Leaking Source
Type of Investigation: Telephone

File No.: 11

Licensee: J. L. Shepherd & Associates
Date of Incident: 9/22/09
Investigation Date: 9/23/09

License No.: 1777-19
NMED Log No.: 090737
Type of Incident: Leaking Source
Type of Investigation: Telephone

File No.: 12

Licensee: CPN Instrotek
Date of Incident: 12/7/09
Investigation Date: 12/7/09

License No.: 1100-07
NMED Log No.: 090871
Type of Incident: Stolen Gauge
Type of Investigation: Telephone

File No.: 13

Licensee: University of California, San Diego
Date of Incident: 9/25/08
Investigation Date:

License No.: 1339-37
NMED Log No.: 080617
Type of Incident: Leaking Source
Type of Investigation: Telephone

File No.: 14

Licensee: Isotope Products Laboratories
Date of Incident: 7/24/09
Investigation Date: 7/24/09

License No.: 1509-19
NMED Log No.: 090765
Type of Incident: Lost Sources
Type of Investigation: Site

File No.: 15

Licensee: Furgo West, Inc.
Date of Incident: 1/5/11
Investigation Date: 1/5/11

License No.: 4377-01
NMED Log No.: 110041
Type of Incident: Damaged Equipment
Type of Investigation: Telephone

File No.: 16

Licensee: University of California at Berkeley
Date of Incident: 11/19/08
Investigation Date: 11/21/08

License No.: 1333-01
NMED Log No.: 080821
Type of Incident: Leaking Source
Type of Investigation: Telephone

File No.: 17

Licensee: University of California at Berkeley
Date of Incident: 11/1/10
Investigation Date: 11/3/10

License No.: 1333-01
NMED Log No.: 100555
Type of Incident: Leaking Source
Type of Investigation: Telephone

File No.: 18

Licensee: Hoag Memorial Hospital Presbyterian
Date of Incident: 3/20/09
Investigation Date: 6/22/09

License No.: 0272-30
NMED Log No.: 090565
Type of Incident: Medical Event
Type of Investigation: Site

File No.: 19

Licensee: Cypress Surgery Center
Date of Incident: 6/3/08
Investigation Date: 6/3/08

License No.: 7342-54
NMED Log No.: 080319
Type of Incident: Transportation
Type of Investigation: Site

File No.: 20

Licensee: California Department of Public Health
Date of Incident: 4/19/08
Investigation Date: 4/28/08

License No.: 0377-01
NMED Log No.: 080265
Type of Incident: Lost Sources
Type of Investigation: Telephone

APPENDIX F

SEALED SOURCE AND DEVICE CASEWORK REVIEWS

NOTE: CASEWORK LISTED WITHOUT COMMENT IS INCLUDED FOR COMPLETENESS.

File No.: 1
Registration No.: CA-626-D-101-G
Applicant Name: Lagus Applied Technology
Date Issued: 6/13/11
SS&D Type: (N) Ion Chromatography
Type of Action: Amendment
SS&D Reviewers: ZG, RR

File No.: 2
Registration No.: CA-406-S-239-S
Applicant Name: Eckert & Zeigler Isotope Products
Date Issued: 2/5/09
SS&D Type: (F) Well Logging Source
Type of Action: New
SS&D Reviewers: ZG, RR

File No.: 3
Registration No.: CA-0406-S-828-U
Applicant Name: Eckert & Zeigler Isotope Products
Date Issued: 2/16/11
SS&D Type: (U) X-Ray Fluorescence
Type of Action: Inactivation
SS&D Reviewers: CR, HA

File No.: 4
Registration No.: CA-0406-S-827-S
Applicant Name: Eckert & Zeigler Isotope Products
Date Issued: 2/13/11
SS&D Type: (X) Medical Reference Source
Type of Action: Inactivation
SS&D Reviewers: DCT, HA

File No.: 5
Registration No.: CA-0406-S-238-S
Applicant Name: Eckert & Zeigler Isotope Products
Date Issued: 5/29/09
SS&D Type: (AB) Medical Diagnosis Sources ,
(D) Gamma Gauge, (X) Medical Reference
Type of Action: Amendment
SS&D Reviewers: DCT, BH, JF

Comment:

The sealed sources can be singly, doubly, or triply encapsulated sources but there is no indication how they can be identified – have same model numbers

File No.: 6
Registration No.: CA-0406-S-196-S
Applicant Name: Eckert & Zeigler Isotope Products
Date Issued: 3/3/11
SS&D Type: (A) Ind.Rad., (D) Gamma Gauge,
(F) Well Logging
Type of Action: Amendment
SS&D Reviewers: HA, JF

Comment:

Description on Page 2 states “capsule is robust enough to retain buildup of Helium gas during working life of the device”, but the only radionuclides used are Cs-137 and Co-60, neither of which generate Helium gas.

File No.: 7
Registration No.: CA-8231-D-801-S
Applicant Name: Thermo Gamma Metrics
Date Issued: 3/28/11
SS&D Type: (H) General Neutron Source
Type of Action: Inactivation
SS&D Reviewers: VK, RR

File No.: 8
Registration No.: CA-8204-D-801-S
Applicant Name: NOVA R&D
Date Issued: 5/15/08
SS&D Type: (H) General Neutron Source
Type of Action: Inactivation
SS&D Reviewers: MG, JF

File No.: 9
Registration No.: CA-0406-S-180-S
Applicant Name: Eckert & Zeigler Isotope Products
Date Issued: 4/24/09
SS&D Type: (X) Medical Reference Source
Type of Action: Amendment
SS&D Reviewers: MG, JF

File No.: 10
Registration No.: CA-0638-D-801-S
Applicant Name: Level Link, Inc.
Date Issued: 8/27/08
SS&D Type: (D) Gamma Gauge
Type of Action: Inactivation
SS&D Reviewers: MG, JF

File No.: 11
Registration No.: CA-0406-S-240-S
Applicant Name: Eckert & Zeigler Isotope Products
Date Issued: 6/6/09
SS&D Type: (F) Well Logging
Type of Action: New
SS&D Reviewers: ZG, RR

Comment:

Maximum activity listed was 24 Ci \pm 20%, maximum activity requested was 20 Ci \pm 20%;
maximum activity for radiation profile was 24 Ci.

File No.: 12
Registration No.: CA-1080-S-104-S
Applicant Name: Varian Medical Systems
Date Issued: 3/10/09
SS&D Type: (AC) Photon Emitting Remote Afterloader
Type of Action: Amendment
SS&D Reviewers: RR, JF

File No.: 13
Registration No.: CA-1259-D-101-S
Applicant Name: Clear Path Technology
Date Issued: 3/2/10
SS&D Type: (H) General Neutron Source
Type of Action: Amendment
SS&D Reviewers: VK, RR

File No.: 14
Registration No.: CA-0406-S-243-S
Applicant Name: Eckert & Zeigler Isotope Products
Date Issued: 10/5/10
SS&D Type: (D) Gamma Gauges, (I) Calib. Sources
Type of Action: Amendment
SS&D Reviewers: BG, HA

Comments:

- a) Under "Isotope and Maximum Activity," isotope listed as "Atomic Numbers 3-83"
- b) External radiation levels only listed for three isotopes, not for Atomic Numbers 3-83

- c) External radiation levels in units of “R/hr”, should have been mR/hr based on maximum activity

File No.: 15

Registration No.: CA-0406-S-106-S

SS&D Type: (AB) Med. Diag., (D) Gamma Gauge,
(I) Calibration Source

Applicant Name: Eckert & Zeigler Isotope Products

Type of Action: Amendment

Date Issued: 4/14/11

SS&D Reviewers: ZG, RR

File No.: 16

Registration No.: CA-0406-S-244-S

SS&D Type: (D) Gamma Gauge, (I) Calibration Source

Applicant Name: Eckert & Zeigler Isotope Products

Type of Action: Amendment

Date Issued: 2/10/11

SS&D Reviewers: JR, JF

File No.: 17

Registration No.: CA-181-D-101-G

SS&D Type: (T) Other

Applicant Name: Beckman Coulter

Type of Action: Amendment

Date Issued: 2/17/10

SS&D Reviewers: MG, JF

Comments:

- a) Licensee stated that device is no longer manufactured, amendment to add new sealed source model for servicing existing devices, should have queried on using inactive product registration code
- b) Cannot verify that the general license label meets the labeling requirements of 10 CFR 32.51 (SS&D and application only reference a GL label)

File No.: 18

Registration No.: CA-1218-D-101-S

SS&D Type: (D) Gamma Gauge

Applicant Name: RapidScan Systems Neutronics

Type of Action: Amendment

Date Issued: 6/17/09

SS&D Reviewers: RR, JF

Comments:

- a) Under “Limitations,” text states that the owners must possess an NRC license or foreign permit, but omit agreement state license
- b) Source holder design referenced by name and SS&D registration number, no diagram of source holder

File No.: 19

Registration No.: CA-1046-D-101-B

SS&D Type: (H) General Neutron Source Application

Applicant Name: Thermo Gamma Metrics

Type of Action: Amendment

Date Issued: 3/4/11

SS&D Reviewers: VK, RR

File No.: 20

Registration No.: CA-0406-S-818-S

SS&D Type: “General Medical Use”

Applicant Name: Eckert & Zeigler Isotope Products

Type of Action: Inactivation

Date Issued: 3/26/09

SS&D Reviewers: ZG, JF

File No.: 21

Registration No.: CA-661-D-103-S
Applicant Name: Varian Medical Systems
Date Issued: 1/30/08

SS&D Type: (AC) Photon Emitting Afterloader
Type of Action: Amendment
SS&D Reviewers: RR, JF

File No.: 22

Registration No.: CA-0384-D-109-S
Applicant Name: Industrial Nuclear
Date Issued: 9/28/11

SS&D Type: (A) Industrial Radiography
Type of Action: Amendment
SS&D Reviewers: RR, JF

Comment:

Areas of product design review did not include location of drive cable attachment and locking mechanism, combined with open accessibility of locking mechanism to permit debris intrusion

File No.: 23

Registration No.: CA-0406-S-813-U
Applicant Name: Eckert & Zeigler Isotope Products
Date Issued: 3/23/09

SS&D Type: X-Ray Fluorescence
Type of Action: Inactivation
SS&D Reviewers: ZG, JF

ATTACHMENT(S)

January 5, 2012 Letter from Ron Chapman
California's Response to the Draft Report
ADAMS Accession No.: ML1200580280



RON CHAPMAN, MD, MPH
Director & State Health Officer

State of California—Health and Human Services Agency
California Department of Public Health



EDMUND G. BROWN JR.
Governor

JAN 05 2012

Mr. James L. Lynch
State Agreements Officer
Division of Nuclear Materials Safety
U.S. Nuclear Regulatory Commission, Region III
2443 Warrenville Road, Suite 210
Lisle, IL 60532-4352

Dear Mr. Lynch:

Thank you for your recent letter regarding the U.S. Nuclear Regulatory Commission (NRC) draft Integrated Materials Performance Evaluation Program (IMPEP) report that documents the results of the Agreement State review held in California on October 17 through 21, 2011. According to the letter, the California Department of Public Health (CDPH) is being provided with an opportunity to review and comment on the draft IMPEP report prior to its submittal to the Management Review Board (MRB).

The Radiologic Health Branch (RHB) appreciates the IMPEP team's efforts in providing a rigorous and professional evaluation of the performance of California's Radiation Safety Program and the proposed recommendation that the program be found adequate to protect public health and safety. RHB concurs with the IMPEP team's recommendation that California continue under the monitoring program initially recommended during the 2008 IMPEP review. On January 5, 2012, Mr. Stephen A. Woods, Chief of the CDPH Division of Food, Drug, and Radiation Safety will meet via video conference with the NRC's MRB to discuss the IMPEP team's recommendations and the final report.

The IMPEP team noted under section 4.1.2, page 13, that RHB's action plan for adoption of NRC regulations in accordance with NRC's current policy on adequacy and compatibility is not specific enough to transition the branch through the regulations development process in a timely manner. Therefore, since completion of the IMPEP, RHB has formed a regulation team, which includes health physicists from the Radioactive Materials Licensing Section and a redirected regulation expert from CDPH's Office of Regulations to ensure that regulations on adequacy and compatibility are adopted in a timely manner. A copy of the action plan provided to the IMPEP team is enclosed.

Mr. James L. Lynch

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JAN 05 2012

RHB's review of the draft IMPEP report identified three areas where corrections are warranted:

1. In section 3.2, the number of overdue inspections noted in the third paragraph of this section is incorrect. There were 54 routine, priority 1-3 inspections conducted after they became overdue during the IMPEP review period, not 73. As noted in paragraphs three and four of this section, there were also nine inspections overdue at the time of the IMPEP review and 19 initial inspections were conducted after they became overdue, for a total of 82 overdue inspections out of 838 inspections performed (this yields an overdue percentage of 9.8 percent).
2. In section 3.2, RHB granted 204 reciprocity permits during the IMPEP review period, not 104, and 75 of these permits were candidate licensees, not 36. Of the 75 candidate licensees, 26 were inspected for an inspected percentage of 34.7 percent.
3. In section 3.4, page 7, fifth paragraph, RHB issues license renewals with ten-year intervals, not five years as stated in the document.

CDPH remains committed to conducting a quality Radiation Safety Program, which complies with all NRC requirements and is protective of the public health and safety. CDPH would like to thank the IMPEP team for the time and effort related to the evaluation of California's Radiation Safety Program, and for the constructive comments provided. If you need additional information, please contact Mr. Stephen A. Woods, Chief, Division of Food, Drug, and Radiation Safety, at (916) 440-7584.

Sincerely,

Kathleen Bullen for Dr. Ron Chapman

Ron Chapman, MD, MPH
Director & State Health Officer

Enclosure

cc: Mr. Rufus Howell
Acting Deputy Director
Center for Environmental Health
California Department of Public Health
P.O. Box 997377, MS 0511
Sacramento, CA 95899-7377

Mr. James L. Lynch
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JAN 05 2012

cc: Mr. Stephen A. Woods, Chief
Division of Food, Drug, and Radiation Safety
California Department of Public Health
P.O. Box 997377, MS 7600
Sacramento, CA 95899-7377

Mr. David Turberville
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201 Monore Street, Suite 700
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Bureau of Radiation Protection
Department of Health
246 North High Street
Columbus, OH 43215

**CDPH-Office of Regulations and Hearings
Action Plan - Regular (Page 1)**

TITLE: Radioactive Materials Regulation Amendments				Date: Nov. 2011	DPH-11-024
Step	Action	Projected	Actual	Responsible Party	Notes/ Comments
		Due Date			
	Start Date of Project			Program	
1.	Organize initial Rulemaking Project Team (RPT) (Program, OOR, OLS, Budgets, at minimum) meeting.	14		Program	These Steps combined. NOTE: Action plan shows basic steps. Additional steps occur if required to complete additional 15-day comment periods.
1.1	Initial RPT meeting	15		Program Lead	
2.	Develop regulation package (reg pkg).	255		RPT (Program Lead)	
2.1	Prepare and distribute reg pkg for final pre-notice RPT meeting.	271		RPT (Program Lead)	
2.2	Final pre-notice RPT meeting. (Reconciliation of remaining issues.)	272		Program & OOR Co-Leads	
2.3	Finalize documents and obtain concurrence of RPT to proceed.)	281		Program & OOR Co-Leads	
3.	Obtain Center Deputy approval.			Program Lead	9 days * (Concurrent)
	Route Budget Analysis w/399.	290		Budgets	
4.	Director's Office review of the reg pkg.	299		OOR	9 days*
5.	Agency and DOF approval of reg pkg and STD 399 w/attachments.				
5.1	Agency review of the reg pkg.	359		OOR	At minimum, 60 days *
5.2	DOF review of the reg pkg. (If applicable)	419		OOR	At minimum, 60 days *
6.	Public Participation Process				
6.1	Prepare Public Notice (PN) package for Director's signature.	422		OOR	3 days *
6.2	Route PN package for the Director's signature, via OLS, for submittal to	431		OOR	9 days *
6.3	OAL's review of the PN.	434		OOR	3 days
6.4	Duplication and Mailing.	464		OOR	30 days *
	Post PN on CDPH Website.				
6.5	Publication of PN in Notice Register and begin Public Comment Period. (30 th day) [Starts one-year clock.]	465			1 day
6.6	Last day to request a Public Hearing.	495		OOR	30 days (15 days before end of 45-day comment period.)
6.7	End of 45-day Public Comment period/Public Hearing	510		OOR	15 days (45 days from Step 6.5.)
6.8	Review and evaluate public comments and determine if any changes should be made to the regulations as noticed. If yes, use Action Plan - R15-day (Page 2).	525		Program Lead	15 days *
6.9	Prepare Updated Informative Digest, responses to all comments, regulation text, and FSOR.	570		Program (RPT Assist)	45 days *

**CDPH-Office of Regulations and Hearings
Action Plan - Regular (Page 1)**

6.10	Review of Updated Informative Digest, All Responses to Comments, Regulation Text, and FSOR.	579		RPT (Program Lead)	9 days *
6.11	Finalize documents and obtain concurrence of RPT to proceed.	594		RPT (Program Lead)	15 days *
6.12	Obtain Center Deputy approval.	603			9 days *
7.	Complete rulemaking file.			OOR	Concurrent with Step 8.
8.	Route package for Director's signature, complete rulemaking file. Submit package to OAL. (Must be on or before one year from Step 6.5.)	612		OOR	9 days *
9.	OAL review of package and if approved, filing with the SOS.	657		OOR	45 days (30 working days)
10.	Regulations become effective 30 days after filing with SOS or on an alternative designated date.	687		OOR	30 days

* ***Actual review time frames will vary depending on the size and complexity of each regulation package.***

Program Lead maintains the official version of regulation documents through Center Approval (Step 3). OOR Lead maintains the official version from Step 4 through the end of the process. Co-leaders will ensure that each Lead has copies of the most current version at all steps through the process.