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Governor

MICHAEL J. WILLDEN

~~CHARLOTTE CRAMFORD~~
Director



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State Health Officer

STATE OF NEVADA
DEPARTMENT OF HUMAN RESOURCES
HEALTH DIVISION
BUREAU OF HEALTH PROTECTION SERVICES

May 24, 2002

Paul H. Lohaus, Director
Office of State and Tribal Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Lohaus:

Enclosed are status update remarks for the Nevada radioactive material program in preparation for the tentatively scheduled teleconference on June 12, 2002 at 1:00p EST/10:00 PST

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley R. Marshall".

Stanley R. Marshall, Supervisor
Radiological Health Section
Bureau of Health Protection Services

Enclosure

sm\ram\061202IMPEPteleconference

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On May 16, 2002, I was advised that the Governor's Office had decided to continue the Agreement State program and not return the program to the NRC at this time. Though the decision could be reversed at any time in the future, pending the outcome of an ongoing financial audit since the administrative decision to retain the program. Program management can now resume efforts to reduce inspection backlog and address other audit findings.

The summary reflects current inspection backlog of the entire license database which was not the case in the statistics utilized by the audit team during the audit.

Technical Quality of Inspections

Action: Nevada was requested to include in their next progress report the number of people who have not had an accompaniment in the last 12 months, both current and new staff, along with the schedule for accompaniments this year.

Response: Adrian Howe was audited for release to conduct nuclear medicine inspections on March 22, 2002.

Other qualified inspection staff that have not had an accompaniment in the last 12 months include: Larry Boschult, Paul Simpson, and Morgan Tyler. Senior staff has committed to complete the accompaniments for these 3 employees by June 30, 2002.

Two new staff not yet qualified to conduct inspections will not be accompanied until a training program has been developed and implemented and the new staff has made progress to justify field accompaniments by senior staff. We will resume development of an interim and full training program in this area.

Technical Staffing and Training

Action: Nevada was requested to provide a status update and any results when the assessments have been completed and reviewed by management.

Response: See above remarks under Status of Materials Inspection Program.

As a result of the Governor's decision to retain the Agreement State program, program management will resume review of technical training opportunities and requirements and the associated funding necessary for specialty courses from NRC or equivalent to complete training requirements for new staff. A plan and schedule will be developed for new staff training.

Status of Materials Inspection Program

Action: Nevada was requested to provide the status of their inspection program in the next progress report including overdue inspections, by priority, along with plans to eliminate overdue inspections.

Response:

Overdue inspections, by priority are as follows:

Initial Inspections > 25% OD per NRC schedule:	13
Priority 1 Inspections > 25% OD per NRC schedule:	7
Priority 2 inspections > 25% OD per NRC schedule:	1
Priority 3 inspections > 25% OD per NRC schedule:	9
Priority 5 inspections > 25% OD per NRC schedule:	17
Priority 7 inspections > 25% OD per NRC schedule:	1

NRC staff was advised that returning the Agreement State program to NRC was under consideration due to current administration reviewing commitments by past Governors to determine programs that were appropriate to continue or that could/should be relinquished due to lack of mandate for the state to carry the program, due to lack of funding or other factors considered by current administration to streamline Nevada government.

NRC staff was later advised that management interpretation of the audit correspondence and related outcome expressed in the final audit report appeared to have caused Administration to more seriously scrutinize whether the unfunded program should be returned to the federal government.

I also indicated that an internal audit was conducted by the Department of Administration independent of and since the recent NRC audit. The auditor inquired about the justification for the program, benefits to the state, costs to the state for continuing and savings to the state if the program was returned to the NRC. The audit was conducted as part of a process by Administration to provide independent review findings to Governor Kenny C. Guinn on whether to reconfirm or relinquish the many past commitments by Nevada Governors, in this case, particularly, the 1972 Agreement State document signed by Governor Mike O'Callaghan.

Though earlier distribution of overdue inspection lists were provided to staff to inform them of inspection priorities in accordance with agency policy changes since the audit to commit to the NRC inspection protocols, we could not implement aggressive actions to inspection backlog reduction due to the pending consideration to turn back the Agreement State program to the NRC.

At this time, approximately \$400 for training is available through June 30; approximately \$1,600 for training is available in the next fiscal year for staff training.

Additional funding for training to supplement the budgets through June 30, 2003 and future budgets under development for SFYs 2004 and 2005 (July 1, 2003 through June 30, 2005) will be addressed as a result of the Governor's commitment to continue the Agreement State program. Review of staffing level adequacy will also be resumed including consideration for funding sources to meet program needs.

Anticipated funding sources will likely be limited to license fee increases and the increases will likely be in the order of 200 – 1,000% above the current fee schedule. Explanation to and acceptance by the regulated communities will be a significant issue to resolve funding for future implementation of this program.

Action: Nevada was requested to provide information on the plan for interim and full qualification of the two new staff in their next progress report.

Response: Licensing review orientation for two new employees, Ed Sweeten and Robert Scavetta, was begun for elementary licensing review activities since the April 16, 2002 teleconference.

Specifically, an orientation was provided by Larry Boschult to Ed Sweeten during a recent northern Nevada orientation trip for Ed to:

- a. become familiar with the logistics of getting through the airports to the other end of the state in the event of his need for emergency response participation in the future and to**
- b. familiarize Ed with X-ray inspection styles of other senior staff, and to**
- c. become familiar with basic radioactive material licensing review activities such as non-radiation safety changes to portable gauge licenses will be utilized for basic training to familiarize new staff with licensing document formats, review protocols, etc. until such time that attendance at NRC or equivalent training courses can be funded. On-the-job training by qualified staff and program management remains the primary training options at this time due to limited training funding.**

In light of the Governor's commitment to continue the program at this time, program management will resume efforts to develop an interim and full qualification plan for new staff.

Response to Incidents and Allegations

Action: NRC staff noted that the following events need to be provided to INEEL, the NMED contractor, NV-97-007, public discovery of lost portable gauge, LV; NV98-006, portable gauge event, LV; NV-00-003, transportation accident, LV; NV01-001, portable gauge theft, LV; and NV-01-003, portable gauge theft, LV.

Response: We had understood by the closing of the audit in September 2001 that all information and questions about incidents and allegations during the review period had been obtained/resolved by audit team members.

When the need for additional information arose at the time of the April 16, 2002 teleconference, we understood from the call that the NMED contractor would be contacting this office for the additional information that you referenced. To date, the NMED contractor has not contacted this office.

Although the teleconference minutes reflect other than our understanding at the time of the discussion, we will contact the NMED contractor to determine what information is now required.

In addition, attendance at the recent NMED training in Portland, OR, should enable staff to finish data entry as intended by the NMED contractor. We will complete the data entry of information now claimed necessary in the minutes of the last teleconference and not collected during the audit as we had understood. We anticipate transfer of the information to the NMED contractor by the time of the June 12 teleconference.

Program Elements Required for Compatibility

Action: Nevada was requested to submit any license conditions being used to incorporate NRC regulatory requirements.

Response: As a result of the Governor's decision to retain the Agreement State program, we will resume development of appropriate text to add NRC requirements to Nevada licenses where we believe necessary until such time the state regulation process

implements the same requirements by rule adoption. Any text that we may consider for addition to Nevada licenses will be submitted for review by NRC prior to implementation.

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