

FINAL MINUTES: NEVADA/NRC TELECONFERENCE OF OCTOBER 15, 2002

The participants were as follows:

Paul Lohaus, STP
Josephine Piccone, STP
Patricia Larkins, STP
Kathleen Schneider, STP

Stanley Marshall, NV
Lance Rakovan, STP
Linda McLean, RIV
Kevin Hsueh, STP

SUBJECT: Status of program activities to address the findings and recommendations of the September 10-14, 2001 IMPEP review of the NV Agreement State program

1. **Introduction.** Introductions of attendees were conducted. The discussion followed an agenda corresponding to the Nevada Radiological Health Section bimonthly progress report dated September 26, 2002, and a revised statistical data update provided October 15, 2002. Mr. Marshall provided a summary statement on the status of the program and provided updated information regarding the ongoing budgetary audit that includes an option for full cost recovery from fees. Plans are underway to develop a fee program.

The two-year biennial budget is up for renewal June 30th, and due to the current economic downturn, the State has placed a freeze on hiring and implemented a 3% reduction across the board for all State agencies effective immediately. The program is also expecting an additional 22% reduction in funds from the State budget. Mr. Marshall stated the program's goal is to accelerate completion of the fee program to offset the expected loss of State budget funds.

Status of Actions in October 26, 2002 Progress Report: Response to recommendations from the September 10-14, 2001 IMPEP review.

Status of Materials Inspection Program. Nevada's response provided information by priority, on inspections that are due and overdue greater than 25% as defined in NRC IMC 2800. Mr. Marshall provided clarification that the "initial inspection" data provided in Table 1. covers initial inspection information for priorities 1-7. The additional Table 1. data, identified by priority for due and overdue inspections, contains the status of all routine inspection information.

Mr. Marshall discussed a revision to the recovery plan developed by the Section, and endorsed by management, to reduce the inspection backlog at an accelerated pace through June 30, 2003. Currently, five fully qualified Section staff were reassigned to work primarily on reduction and elimination of the overdue inspections. The effort was to direct approximately 3 FTE to support the Nevada State Health Division radioactive material licensing and inspection activities. Mr. Marshall stated that he was concerned that under the current plan the program would not meet its inspection goal of currently due inspections because of concentrated efforts on backlogged inspections. Therefore, he is revising the plan to focus on new and due inspections rather than the pending backlogged inspections. Mr. Lohaus suggested that Mr. Marshall review our 6/21/02 email which he believed provided information regarding this issue (attached).

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Mr. Marshall provided an update on his interest in reviewing electronic management control programs in other Agreement States that have used a software program similar to the FoxPro and Microsoft Access 97 currently used by Nevada, to retain historical data. Mr. Marshall indicated that several States were contacted, and his staff reviewed the software programs. Nevada plans to budget for an updated automated system.

Action: Provide updated information on the status of inspections in the next progress report.

Technical Staffing and Training.

Mr. Marshall stated that the program lost one of the two new hires. He also stated that the hiring freeze may impact the program's ability to fill the vacant position. The loss of the new staff member will not significantly impact the "recovery plan" developed to reduce the inspection backlog through June 30, 2003. The recovery plan involves fully qualified staff.

Mr. Marshall stated that a contractor has been hired to conduct an internal staffing and level of effort assessment to provide input to the development of the license fee program plan and potential fee increases. Mr. Marshall indicated that the contractor is responsible for the identification of the number of staff necessary to maintain the program. The study includes an analysis of activities such as regulation development and emergency response, which are not directly tied to fees. They are assessing how to include these activities in the budget. Mr. Marshall stated that the contractor is a retired bureau chief from another State agency, who accomplished placing her former bureau under a fee-based program.

Action: Provide updated status in next progress report.

Program Elements Required for Compatibility. Nevada's response provided information on the development of legally binding requirements and the adoption of compatible regulations. Mr. Marshall provided an update on proposed regulations. The Nevada Legislative Council Bureau completed a review and provided comments on proposed rules. The completion date does not provide adequate time for Division staff review, public comment workshops, and incorporation of comments in a timely manner to meet the November 15, 2002 Board of Health hearing agenda. Pending completion of a 2003 Board of Health hearing schedule, Mr. Marshall estimated possible rule adoption sometime between January and February 2003.

Mr. Marshall provided some clarification regarding a package of legally binding requirements provided to NRC. Mr. Marshall indicated the program selectively excerpted portions of its draft rules for incorporation as legally binding requirements. Ms. Josephine Piccone, Deputy Director, STP, indicated that a teleconference between the NV staff responsible for regulation development and STP staff would be scheduled after initial STP preview of the legally binding requirements. Mr. Marshall indicated that he and Larry Boschult would participate.

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Other Items: Mr. Marshall requested an update on the status of STP procedure No. SA -119. Mr. Lohaus stated that STP procedure No. SA-119, is currently in draft, and we plan to issue the draft procedure for Agreement State review and comment in early November. He also stated that we planned to include information on the status of SA - 119 and the scope of the follow-up IMPEP review in an email response to him by the end the week.

Action: Provide updated status in next progress report due December 10, 2002.

Schedule for Next Meeting: The next meeting has been scheduled for December 18, 2002, 1:00 p.m. EDT

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ATTACHMENT

From: Paul Lohaus
To: INTERNET:smarshall@bhps.state.nv.us
Date: 6/21/02 3:35PM
Subject: Response to your 6/13/02 call to Linda McLean

Stan:

I asked Linda for an opportunity to respond to your telephone call to her which you placed after our 6/13/02 bimonthly conference call. Specifically, during the bimonthly call, we asked that you provide the status of your program's material inspection program in the next progress report including overdue inspections, by priority, along with plans to eliminate overdue inspections. I would like to provide additional information and clarification regarding that request and also address statements made in your progress report.

As a minimum, we ask that you continue to include information in the progress report on the status of core inspections. This information is needed to understand the program's progress in reducing the number of overdue core inspections in accordance with your program improvement plan. Your May 24, 2002 progress report contained information on overdue inspections, as defined in the Glossary section of Management Directive 5.6 (MD 5.6). During the call, we also asked that you include in your next progress report more complete information about the overall status of your inspection program. We asked that you include such information to help us better understand your plans to continue to reduce the current number of overdue inspections. Such information will also help to understand whether the program is able to stay current with and address the entirety of the inspection workload faced by the program. For example, whether efforts to reduce the backlog may be affecting the ability of your program to maintain current core inspections within your priority system.

During the call, you expressed concern regarding the level of effort necessary to provide such information. I responded indicating that, to me, such information would normally be readily available since it would likely be used to schedule routine inspections.

Given your concern, and that we do not want to place any additional burden on your program, we ask that you consider whether there may be other alternative means for you to provide information to us on the status of your inspection program that would address the following points:

1. The current status of overdue core inspections (including initial inspections) as defined in MD 5.6;
2. An understanding of your plans to eliminate overdue core inspections (including initial inspections); and

ATTACHMENT cont.

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3. An understanding of the ability of the program to both reduce the backlog in overdue core inspections and to maintain the remainder of the core inspections current with the program's inspection priority system.

For example, in lieu of providing quantitative data for items 2 and 3, you could include a short paragraph in your progress report to reflect how you plan to reduce the backlog, the current status of those plans, and discuss whether the program is maintaining current core inspections within your priority system. You may have other suggestions or alternatives where you could provide such information without placing any significant burden on the program.

Additionally, we noted that information presented in your May 24, 2002 progress report on overdue initial inspections does not appear to comport with guidance in MD 5.6. We would appreciate your addressing this point in your next progress report.

Finally, in your progress report you provided information that the Governor's office conducted an audit to consider returning the Agreement State program to NRC. An independent financial audit of the program is also underway to assess costs of carrying out the program given tight fiscal constraints. In the report, you stated that the Governor's Office decided to continue the Agreement State program at this time. The report also notes that although the ". . . decision could be reversed at any time in the future. . . program management can now resume efforts to reduce inspection backlog and address other audit findings. "

I want to reiterate that whether the Agreement is returned or not is solely a State decision, and that NRC is neutral on whether Nevada retains its Agreement. I want to also reiterate that until such time as a decision is made, and the Agreement is formally relinquished, NRC would expect Nevada to continue to implement a program consistent with the IMPEP criteria. The program retains responsibility to maintain an adequate and compatible program in accordance with the terms of the Agreement, and in accordance with the criteria contained in Manual Directive 5.6, Integrated Materials Performance Program.

I hope this information is helpful. Please let me know if you have any questions.

Paul

CC: Dwight Chamberlain; Josephine Piccone; Kathleen Schneider; Linda McLean; Patricia Larkins; Vivian Campbell

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**FINAL AGENDA
NEVADA / NUCLEAR REGULATORY COMMISSION
TELECONFERENCE
TUESDAY, OCTOBER 15, 2002, 1:00-2:00 pm EDT**

Non-NRC Participant's Role

1-800-638-8081

Passcode: 2356

NRC Participants:

301-231-5539 Passcode: 2356

(Telephone Lines will open at 12:50 p.m.)

SUBJECT: DISCUSS SEPTEMBER 26, 2002 PROGRESS REPORT

2. Introduction (NRC/Nevada)

3. Status of Materials Inspection Program (Nevada Program)
 - a. Status of due and overdue inspections by priorityQuestions/discussion

3. Technical Staffing and Training (Nevada Program)
 - a. Status of new staff
 - b. Status of internal staffing assessment reviewQuestions/discussion

4. Legislation and Program Elements Required for Compatibility (Nevada Program)
 - a. Status of action plan to adopt NRC regulations in accordance with current policy on adequacy and compatibility
 1. Regulations
 2. Legally binding requirementsQuestions/discussion