

FINAL MINUTES: NEVADA/NRC TELECONFERENCE OF DECEMBER 18, 2002

The participants were as follows:

Paul Lohaus, STP
Josephine Piccone, STP
Patricia Larkins, STP
Lance Rakovan, STP
John Zabko, STP

Stanley Marshall, NV
Linda McLean, RIV
James Lynch, RIII
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 December 11, 2002 (Attachment 1). 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. Mr. Marshall stated the program's goal to accelerate completion of the fee program to offset the expected loss of State budget funds, and completion of the staffing and planning estimates for program activities, has not progressed as expeditiously as planned. Based on current plans, the State Health Division will present a request for full cost recovery from fees to the Nevada State Board of Health at the March 28, 2003, board meeting. The Board has responsibility for approving any fee plans.

No change in the State's implementation of a freeze on hiring and a 3% reduction across the board for all State agencies. No change in the program's expectation of an additional 22% reduction in funds from the State budget.

Status of Actions in December 11, 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 stated that the program continues to focus experienced staff on maintaining new and due inspections, to keep new inspections from becoming overdue.

Mr. Marshall provided an update on the programs efforts to recover from the loss of system data, which is impacting program funds and the ability to extract statistical inspection data.

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

Technical Staffing and Training.

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Mr. Marshall stated that the State hiring freeze continues to impact the program's ability to hire new staff for the vacant position created as a result of the loss of one of the two new hires. The loss of the new staff member continues to have minimal impact on the "recovery plan" developed to reduce the inspection backlog through June 30, 2003, as the recovery plan involves experienced fully qualified staff. Mr. Marshall stated that the new technical staff member is continuing training in non-AEA material areas such as X-ray. The long-range program staffing plan includes a gradual training progression into AEA material activities. As current fully qualified staff begin to address and complete pending backlog activities, they will become available to support training activities for the new staff member.

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 (LCB) completed a review and provided comments on proposed rules. Pending no additional LCB review comments, the Division plans to hold public hearings and workshops, and hold informal discussions of the results of the evaluation of the comments with the STP regulations coordinator. Mr. Lohaus indicated that although the informal discussion is not part of the usual process, and, therefore, would not provide an official compatibility determination, it will provide support to the program's efforts to continue with a timely schedule for rule adoption. Based on a timely schedule for incorporation of comments, the Division plans to present the rules for adoption to the Board of Health at the March 28, 2003 hearing. Pending adoption of the rules at the 2003 Board of Health hearing, and based on few changes to the rules, the Division would begin implementation of the final rules, along with the immediate filing of the adopted rules with the Nevada Secretary of State.

Action: Provide updated status in next progress report due February 12, 2003

Follow-up IMPEP Review:

Mr. Lynch led the discussion on the upcoming follow-up IMPEP review scheduled for April 7-11, 2003. The review team will consist of four individuals (Mr. James Lynch, Ms. Linda McLean, Mr. Wade Loo, and Ms. Barbara Hamrick.)

Schedule for Next Meeting: The next meeting has been scheduled for February 25, 2003, 3:00 p.m. EST.

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**FINAL AGENDA
NEVADA / NUCLEAR REGULATORY COMMISSION
TELECONFERENCE
WEDNESDAY, DECEMBER 18, 2002, 1:00-2:00 pm EST**

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 DECEMBER 11, 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 and/or legally binding requirements
 - a. Status of response to November 19, 2002 discussion, (12/12/02 email re:NV/NRC Telcon re Regulations (Attachment 2))Questions/discussion

5. New Item: Schedule for next Teleconference

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From: "Stan R. Marshall" <SMARSHALL@nvhd.state.nv.us>
To: "Patricia Larkins" <PML@nrc.gov>
Date: 12/12/02 11:12PM
Subject: RE: NV/NRC TELCON RE REGULATIONS

Two issues: 1. Our agency is reviewing full cost recovery but decision to implement any fee increase is fully dependent on vote by the Nevada State Board of Health, not this agency. Real changes to the program in the next months/years to come will be contingent on fee increases and other financial support to the program.

In fact, a lot of fee increase can be voted in the near future but if it is not significant, it will only replace funding that we also expect to lose, resulting in an overall net gain of nothing unless considerable more fee increase is also accomplished to enable real improvements of staffing and other resources.

2. I have received word that management can support our anticipated fee increases and the adoption of technical regulations at the March 2003, without delay of either one. This presumes LCB finishes soon, we conduct public workshops again soon and we make the agenda deadline in February for the March meeting.

-----Original Message-----

From: Patricia Larkins [mailto:PML@nrc.gov]
Sent: Thursday, December 12, 2002 1:26 PM
To: Stan R. Marshall
Cc: John Zabko; Josephine Piccone
Subject: NV/NRC TELCON RE REGULATIONS

Stan, providing a summary of the telcon which included Ms. Piccone's recommendation of a temporary resolution to suspend the pursuit of other legally binding requirements due to program expectations to adopt final rules within a few months. The temporary resolution, included a provision to provide NRC a definitive date for rule adoption by the date of the next scheduled teleconference, December 18, 2002. Based on your 12/11/02 status report response, it appears that a definitive date for completion of the Council's review remains unavailable. Is this a correct assumption?

I am providing a summary clarification regarding our November 19, 2002 telcon discussion that included Josephine Piccone, John Zabko, and myself, on the subject of interim actions to implement regulations or legally binding requirements, such as adoption and citation by reference of NRC regulations or citation of the NV 2001 draft regulations previously reviewed by NRC, for use as interim license conditions.

It is our understanding that consideration of citing NRC's regulations in a license condition could result in confusion for licensees. Further, the unofficial, not publicly available status of draft regulations precludes consideration of referencing draft NV regulations as an interim license condition to applicable NV licenses. The NV legal staff has advised against the pursuit or implementation of rules by license condition without also pursuing rule adoption, and, at this time, the program has not pursued adoption by reference of NRC regulations with the legal staff.

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It is also our understanding that under the current rule process, proposed rules are sent to the NV Legislative Council, for a 30 day review. Although it is unusual, the proposed regulations have been before the Council for nine months and it is expected that the Council will complete the review process very shortly; at which time, they will be sent to the NV Board of Health. The NV Board of Health is the final authority for adoption approval of final rules. At this time, there is no definitive date for completion of the Council's review of the proposed regulations, but the program anticipates that they will complete the review process within the next few months.

You also noted major program changes that will be occurring in the next nine months as a result of the Department's decision to implement full cost recovery under a license fee program. Part of the effort includes a rigorous schedule to adopt rules to implement the fee program, which is a program priority.

Ms. Josephine Piccone provided clarification that maintenance of compatible regulations is part of the programs activities to maintain compatibility, and that this may be accomplished through the adoption process of compatible regulations or other legally binding requirements.

Ms. Piccone recommended a temporary resolution to suspend the pursuit of other legally binding requirements due to program expectations to adopt final rules within a few months. The temporary resolution, included a provision to provide NRC a definitive date for rule adoption by the date of the next scheduled teleconference, December 18, 2002.