

STATE OF NEBRASKA

DEPARTMENT OF HEALTH
Mark B. Horton, M.D., M.S.P.H.
Director



E. Benjamin Nelson
Governor

November 1, 1996

U.S. Nuclear Regulatory Commission
Office of State Programs
Mail Stop 3D23
Washington, DC 20555

Attn: Richard L. Bangart, Director
Office of State Programs

Dear Mr. Bangart:

I have reviewed the draft report issued by the IMPEP review team with regard to factual correctness for the Radioactive Materials Program and have the following comments:

1. 3.1 Status of Materials Inspection Program

Refer to the second paragraph, eleventh line, (3): As stated in Question A.I.3. of the IMPEP questionnaire, all service licensees were previously assigned a five year inspection frequency. After review of IMC 2800, the inspection frequencies of service licensees were revised to correspond to the appropriate three or five year frequency.

Refer to the second paragraph, fifteenth line: The presence of a service license for which IMC 2800 requires a two year inspection frequency is not documented in the report and is not readily clear from a review of IMC 2800 and our licensees. IMC 2800 requires a two year inspection frequency for service licensees providing Decontamination Services and Waste Disposal Service Prepackaged Only and Nebraska does not have a licensee in either category. If you will indicate which service licensee you have determined requires a two year inspection frequency, the frequency will be revised.

Refer to the third paragraph, seventh line: The contractor performed 27 inspections, however, 13 of the inspections were not yet overdue in accordance with IMC 2800. The contract was written to have performed all inspections that were identified as overdue at the time, and to have performed as many other inspections as financially possible.

Refer to the fifth paragraph, sixth line: The presence of 10 initial inspections which are due is not documented in the report and was not discussed at the time of the review. If the report is referring to all licensees that do not have an Last Inspected date on our tracking system, there are explanations that may be provided. One license, 02-20-01, is our program license. Two of the licenses, 01-39-03 and 10-03-04, authorize the nuclear power plant to use radioactive material at temporary jobsites in the event of an

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Richard L. Bangart, Director

November 1, 1996

Page 2

emergency situation, and material has not been used under these licenses. One license, 99-46-01, is an out-of-state licensee from Wisconsin authorizing non-AEA material and has not yet entered the state. One license, 99-43-01, is an out-of-state service licensee and has not entered the state since their license was placed in an deferred status October 10, 1991. If any further guidance on this can be given, it would be appreciated.

Refer to the eleventh paragraph, eleventh line, (4): IMC 2800 04.03a. requires that initial inspections be performed within six months of receipt of licensed material, within six months of beginning licensed activities, or within one year of license issuance. The use of a standard condition on new licenses to require notification of receipt of material and the beginning of licensed activities in addition to the telephone contacts now used by the program is being explored.

2. 3.2 Technical Staffing and Training

Regarding the third paragraph: The second reorganization was not fully implemented until July 1, 1995. As stated in the report, a permanent program manager for the Radioactive Materials Program had already been designated on April 24, 1995. An internal memorandum, copy enclosed, dated July 20, 1995, documents that the LLRW Program Manager was designated as the Acting Radioactive Materials Program Manager effective June 23, 1995. This designation of an acting program manager was effective until a permanent manager was named on May 1, 1996.

Refer to the sixth paragraph, eighth line: The Radioactive Materials Program Manager position was not permanently filled for almost a year.

Refer to the seventh paragraph, thirteenth line: A formalized training manual was not available, but database records for a majority of the training received by program staff were available but were unknown to the new Program Manager.

Refer to the eighth paragraph, eighth line: A major factor not included in the reasons why a newly hired staff member was not yet considered qualified to perform low priority inspections was that program staff were limited to licensing activities while inspections were performed by contract personnel.

3. 3.3 Technical Quality of Licensing Actions

Regarding the first paragraph, fourth line and fourth paragraph, third line: The Program Manager provided the review team with a licensing log book that covered the entire review period, but the handwritten logbook did not easily allow for statistical review of the pending actions, and the program began using a computer based spreadsheet for tracking licensing actions in July 1995.

Refer to the fourth paragraph, fifth line: Our records indicate that 48 licensing actions were completed between July and December 1995, and that 70 licensing actions were completed between January and June 21, 1996.

Refer to the fourth paragraph, tenth line: The handwritten sheets were kept in one logbook and updated by program support staff.

Regarding the seventh, eighth and ninth paragraphs: Does this statement indicate that the team intends to create a non-common performance indicator to be used to evaluate Agreement State Programs and not NRC Regions on the status of a licensing backlog? The issue of a backlog of licensing actions should be addressed in the report under 3.2 Technical Staffing and Training and any recommendations dealing with administrative procedures and get-well plans to eliminate backlogs included there. It is proposed that the finding for this indicator, as defined in NRC Management Directive 5.6, be Satisfactory since no recommendations were made regarding technical quality.

4. 3.4 Technical Quality of Inspections

Refer to the fifth paragraph, ninth line: Delete Low-Level.

Refer to the eighth paragraph, third line: An indication that the Inspection Manual was used by program staff can be found in the draft report in paragraph three of this section which states that the State uses separate inspection field notes for various classes of licensees. These field note forms are a large part of the current Inspection Manual. The Enforcement Manual was written specifically into the contract for inspections and was used extensively by the contractor prior to being implemented by program staff.

Richard L. Bangart, Director

November 1, 1996

Page 4

Refer to the eighth paragraph, fifth line: The Enforcement Manual contains boilerplate citations to be used in drafting an NOV.

Regarding the eleventh paragraph: A Program Manager for the Radioactive Materials Program was designated as indicated in item 2. of this letter. A delegation of authority dated June 20, 1995, copy enclosed, was provided to the review team. It stated that inspection letters were to be signed by the lead inspector with peer review if a notice of violation was to be included. After discussions with the review team, the delegation of authority was revised to clearly indicate that a management review was required. See Attachment 1 of draft report for a copy of the revision (the copy provided to the State did not include the Table which was printed on the back of the August 19, 1996 memorandum).

Refer to the twelfth paragraph, nineteenth line, and Appendix E: Several references are made to not documenting the training provided to ancillary staff, such as secretarial, housekeeping or security personnel as required by 10 CFR 19.12. It is not clear if these comments take into account the revised Part 19 which requires training for only individuals likely to receive an occupational dose in excess than 100 mrem.

5. 3.5 Response to Incidents and Allegations

Refer to the second paragraph, eleventh line (and other places): Revise reference to state NRC Management Directive 8.8, "Management of Allegations."

6. 4.1.2 Status and Compatibility of Regulations

Refer to the second paragraph, seventh line: Has the review team made a determination that the conditions placed on each irradiator license are not legally binding or equivalent to or more stringent than the requirements in 10 CFR Part 36?

Richard L. Bangart, Director
November 1, 1996
Page 5

7. 5.0 Summary

Recommendations 1, 2 and 5: It is proposed that Recommendations 1 and 5 be removed since they reiterate what is already stated in Recommendation 2.

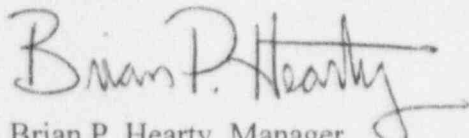
Recommendation 9: It is unclear if this recommendation is directed to the State or to the NRC as stated in Section 3.2 of the report. It is proposed that this recommendation be removed under the assurance that the State will carefully consider the needs of the Agreement State Program during its reorganization.

Recommendations 10 and 11: As stated in Item 3. of this letter, these recommendations reiterate what as already been stated in Recommendation 8. and should be removed.

Recommendation 17: It is proposed that Recommendation 17 be removed since it reiterates what is already stated in Recommendation 8.

If you have any questions regarding the comments or proposed changes to the draft inspection report, please contact me at (402) 471-2168.

Sincerely,

A handwritten signature in cursive script that reads "Brian P. Hearty". The signature is written in dark ink and is positioned above the printed name and title.

Brian P. Hearty, Manager
Radioactive Materials Program

Enclosures

STATE OF NEBRASKA

DEPARTMENT OF HEALTH
Mark B. Horton, M.D., M.S.P.H.
Director



E. Benjamin Nelson
Governor

MEMORANDUM

Date: June 20, 1995

From: Mark B. Horton, M.D., M.S.P.H.

To: Burke E. Casari, Director
Environmental Health Division

RE: Delegation of authority to sign documents in the Radioactive Materials Program.

I have attached a table dated June 19, 1995, showing the delegation of authority to sign licensing, inspection and other documents generated by the Radioactive Material Program.

XC: Jack Daniel, Administrator
Environmental Health and Toxicology Section

**Nebraska Department of Health
Environmental Health Division
Environmental Health and Toxicology Section
Radioactive Materials Program**

June 19, 1995

Document	Signature Block	Person whom may sign for the named individual
New License *	Program Manager	none
License Renewal *	Program Manager	none
License Amendment *	Program Manager	Program Health Physicist (Author Only)
License Termination *	Program Manager	none
Renewal Request	Individual reviewing the license to determine long or short form renewal (Program Manager or Health Physicist)	none required
Reciprocity Request	Individual providing the information (Program Manager, Program Health Physicist)	none required
Reciprocity Review	Individual reviewing information for completeness	none required
Timely Filed Letter	Individual reviewing the application to assure it is valid (Program Manager or Health Physicist)	none required
Inspection Letter * If IONC or REC	Program Health Physicist (Lead Inspector)	none
Enforcement Letter	Program Manager	none
Inspection Reply Letter * If participatory insp	Program Health Physicist (Lead Inspector)	none
Inspection Report *	Program Health Physicist (All Inspectors, Lead First)	none
Deficiency Letter	Individual reviewing licensing request or inspection reply (Author or Lead Inspector)	none required
Policy Statement	Program Manager or Higher	none
Procedures	Program Manager	none
Event Database Update	Individual providing the information (Program Manager, Program Health Physicist)	none required
Information Request	Individual providing the information (Program Manager, Program Health Physicist or Support Staff)	none required

* Peer review required for this document.

STATE OF NEBRASKA

DEPARTMENT OF HEALTH
Mark B. Horton, M.D., M.S.P.H.
Director



E. Benjamin Nelson
Governor

MEMORANDUM

DATE: July 20, 1995

TO: Radioactive Materials Program Staff

FROM: Jack Daniel, Administrator *g JLD*
Environmental Health Protection Section

RE: Acting Program Manager for Radioactive Materials Program

On June 23, 1995, Cheryl K. Rogers was designated the Radioactive Materials Program Manager and assumed the responsibilities and signing privileges of the position until it is filled on a permanent basis. In the event of Cheryl's absence, Joyce K. Davidson is designated to have the signing privileges of the Radioactive Materials Program Manager.