



**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES**

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John A. Stephen
Commissioner

Mary Ann Cooney
Director

September 26, 2005

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STP

John Zabko
Office of State and Tribal Programs
United States Nuclear Regulatory Commission
Washington, D.C. 20555-0001

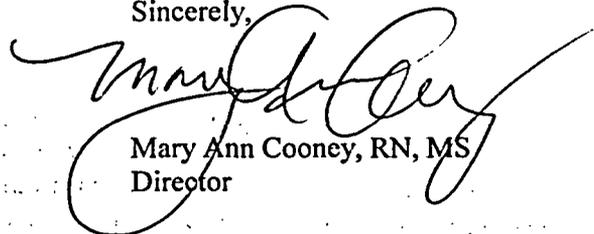
Dear Mr. Zabko:

We have completed the review of the draft Integrated Materials Performance Evaluation Program (IMPEP) report dated August 26, 2005, which documents the results of the follow-up review conducted on June 26-27, 2005, of New Hampshire's Agreement State program. Overall, we believe that the report is accurate, and in particular, we are in agreement with the report findings and with the team's final recommendation that the program be found to be adequate to protect public health and safety and compatible with the Nuclear Regulatory Commission's program. Attached are a few specific comments updating and clarifying certain items contained in the draft report. Should you require further discussion of these items, I invite you to contact Mr. Dennis O'Dowd, Administrator, Radiological Health Section at (603) 271-4588, or Ms. Alice Bruning, Chief, Bureau of Prevention Services, at (603) 271-4549.

It is my understanding that the IMPEP review team will present its findings of the New Hampshire Agreement State Program follow-up review to the Management Review Board on a date yet to be determined sometime during the few weeks. New Hampshire intends to fully participate in this final review process by having technical and administrative staff available to address any of the Board's questions or concerns. The New Hampshire Program will also be responsive to any findings or recommendations the Board may have.

I thank you and your staff for the very thorough follow-up review of the New Hampshire Agreement State Program.

Sincerely,



Mary Ann Cooney, RN, MS
Director

Enclosure

cc: John Stephen, Commissioner, DHHS
Alice Bruning, Chief, Bureau of Prevention Services, Div. of Public Health Svcs., DHHS
Dennis P. O'Dowd, Administrator, Radiological Health Section, BPS, DPHS, DHHS

SISP Review Complete

STP-006 Complete
RIDS: *SPDI*

INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

REVIEW OF NEW HAMPSHIRE AGREEMENT STATE PROGRAM

RESPONSE TO DRAFT REPORT DATED AUGUST 26, 2005

With regard to the comments made relative to the performance indicator, "Technical Staffing and Training," we offer the following update:

- On September 13, 2005, the Division was notified that the New Hampshire Division of Personnel officially upgraded the two program management positions, (i.e., Radioactive Materials Program Manager and the Radiation Machines Program Manager) from Health Physicist II to Radiation Health Physicist IV positions, therefore, opening up the process to commence recruitment for these positions. At this time, the request for posting is in process. It is our expectation that both of these positions will be posted within the next two weeks.
- Although, as stated in the draft report, the state has amply demonstrated its ability to operate satisfactorily without the assistance of contracted health physics support over the past year, we have nevertheless renewed the contracts for both a license reviewer and a materials inspector, in order to continue the progress made in training staff and providing "as-needed" coverage, and with any significant licensing/inspection projects (e.g., decommission) that may arise during the upcoming year.

With regard to the comments made relative to the performance indicator "Program Elements Required for Compatibility," we offer the following additional comments:

- With respect to the comment made in Section 3.1.2 of the draft report that Bureau and Section management plans to request a full-time position to be used to work on rules adoption, it should be clarified that the Section is preparing a proposal to upgrade a current part-time clerical position in the Section to a full-time position that would assist the Section's professional staff member assigned to working on future regulation development.
- We would like to note that of the regulatory amendments awaiting approval by the Joint Legislative Committee on Administrative Rules (JLCAR) at this time, two of these have already been made legally binding requirements (i.e., license conditions) on applicable licenses for several months. These are the "Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act," 10 CFR Part 20 amendment (61 FR 65120); and "Recognition of Agreement State Licenses in Areas under Exclusive Federal Jurisdiction Within an Agreement State," 10 CFR Part 150 amendments (63 FR 1890 and 63 FR 13773). We request that this point be considered, since in effect, the criteria set out for this indicator with respect to these two particular requirements have been met, in our opinion. However, it has come to our attention that the letters requesting formal review of these conditions were not submitted to the NRC, as was believed; therefore, we are presently preparing our formal request for review to be submitted as soon as possible.
- The final two sets of regulations awaiting approval are scheduled to be brought before the JLCAR at their next scheduled hearing date on October 20, 2005.