December 31, 2008

Jose T. Montero, M.D.
Director
Division of Public Health Services
Department of Health and Human Services
29 Hazen Drive
Concord, NH 03301-6504

Dear Dr. Montero:

On December 5, 2008, the Management Review Board (MRB) met to consider the proposed final Integrated Materials Performance Evaluation Program (IMPEP) report on the New Hampshire Agreement State Program. The MRB found the New Hampshire Agreement State Program adequate to protect public health and safety and compatible with the U.S. Nuclear Regulatory Commission's (NRC) program.

Section 5.0, page 12, of the enclosed final report contains a summary of the IMPEP review team's findings. Based on the results of the current IMPEP review, the next full review of the New Hampshire Agreement State Program will take place in approximately 4 years, with a periodic meeting tentatively scheduled for September 2009. NRC will assess the State's adoption of compatibility-required regulatory amendments during the periodic meeting.

I appreciate the courtesy and cooperation extended to the IMPEP team during the review. I also wish to acknowledge your continued support for the Agreement State Program. I look forward to our agencies continuing to work cooperatively in the future.

Sincerely,

/RA/

Martin J. Virgilio
Deputy Executive Director for Materials, Waste,
Research, State, Tribal, and Compliance Programs
Office of the Executive Director for Operations

Enclosure:
New Hampshire Final IMPEP Report

cc w/encl.: See next page

cc w/encl: Michael J. Dumond, Chief
New Hampshire Bureau
of Prevention Services

Dennis O'Dowd, Administrator
New Hampshire Radiological
Health Section

Christopher Pope, State Liaison Officer
New Hampshire Department
of Safety

Cindy Cardwell, Texas
Organization of Agreement States
Liaison to the MRB

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Protecting People and the Environment

INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM

REVIEW OF THE NEW HAMPSHIRE AGREEMENT STATE PROGRAM

September 16-19, 2008

FINAL REPORT

Enclosure

1.0 INTRODUCTION

This report presents the results of the review of the New Hampshire Agreement State Program. The review was conducted during the period of September 16-19, 2008, by a review team comprised of technical staff members from the U.S. Nuclear Regulatory Commission (NRC) and the State of Maine. Team members are identified in Appendix A. The review was conducted in accordance with the "Implementation of the Integrated Materials Performance Evaluation Program and Rescission of Final General Statement of Policy," published in the *Federal Register* on October 16, 1997, and NRC Management Directive 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)," dated February 26, 2004. Preliminary results of the review, which covered the period of June 26, 2004, to September 19, 2008, were discussed with New Hampshire managers on the last day of the review.

A draft of this report was issued to New Hampshire for factual comment on October 14, 2008. The State did not provide any comments on the draft report. The Management Review Board (MRB) met on December 5, 2008, to consider the proposed final report. The MRB found the New Hampshire Agreement State Program to be adequate to protect public health and safety and compatible with NRC's program.

The New Hampshire Agreement State Program is administered by the Radiological Health Section (the Section), which is part of the Bureau of Prevention Services (the Bureau). The Bureau is located in the Division of Public Health Services, which is part of the Department of Health and Human Services (the Department). The Commissioner of the Department reports to the Governor. Organization charts for the Department, the Bureau, and the Section are included in Appendix B.

At the time of the review, the New Hampshire Agreement State Program regulated 80 specific licenses authorizing byproduct, source, and certain special nuclear materials. The review focused on the radioactive materials program as it is carried out under the Section 274b. (of the Atomic Energy Act of 1954, as amended) Agreement between the NRC and the State of New Hampshire.

In preparation for the review, a questionnaire addressing the common and applicable non-common performance indicators was sent to the Section on May 7, 2008. The Section provided its response to the questionnaire on September 1, 2008. A copy of the questionnaire response can be found in NRC's Agencywide Documents Access and Management System (ADAMS) using the Accession Number ML082800101.

The review team's general approach for conduct of this review consisted of: (1) examination of the Section's response to the questionnaire; (2) review of applicable New Hampshire statutes and regulations; (3) analysis of quantitative information from the Section's database; (4) technical review of selected regulatory actions; (5) field accompaniments of three inspectors; and (6) interviews with staff and managers. The review team evaluated the information gathered against the established criteria for each common and applicable non-common performance indicator and made a preliminary assessment of the New Hampshire Agreement State Program's performance.

Section 2.0 of this report covers the State's actions in response to recommendations made during the previous review. Results of the current review of the common performance indicators are presented in Section 3.0. Section 4.0 details the results of the review of the applicable non-common performance indicators, and Section 5.0 summarizes the review team's findings and recommendations. The review team's recommendations are comments that relate directly to program performance by the State. A response is requested from the State to all recommendations in the final report.

2.0 STATUS OF ITEMS IDENTIFIED IN PREVIOUS REVIEWS

During the followup IMPEP review in 2005, all open recommendations regarding program performance were closed.

3.0 COMMON PERFORMANCE INDICATORS

Five common performance indicators are used to review NRC Regional and Agreement State radioactive materials programs. These indicators are: (1) Technical Staffing and Training, (2) Status of Materials Inspection Program, (3) Technical Quality of Inspections, (4) Technical Quality of Licensing Actions, and (5) Technical Quality of Incident and Allegation Activities.

3.1 Technical Staffing and Training

Issues central to the evaluation of this indicator include the Section's staffing level and staff turnover, as well as the technical qualifications and training histories of the staff. To evaluate this indicator, the review team examined the Section's questionnaire response relative to this indicator, interviewed Section managers and staff, reviewed job descriptions and training records, and considered any workload backlogs.

The Section, which is headed by the Administrator, has two Program Managers and four technical staff. One Program Manager is dedicated to the Radioactive Materials Program; the other is dedicated to the Radiation Machines Program. The technical staff shares responsibilities for radioactive materials and radiation machine licensing, inspection, and incident response activities. At the time of the review, the Section had 2.55 full-time equivalents (FTE) dedicated to the Radioactive Materials Program, not including the Administrator's oversight of the program or clerical support. The Administrator, two Program Managers, and four technical staff contribute 1.05 FTE to radiological emergency response. The Section has a dedicated staff member that coordinates the Radiological Emergency Response Program that can also provide technical support and assistance for radioactive materials incidents.

During the review period, the Section's staffing level was stable, which is an improvement compared to previous review periods. Since the 2005 followup review, the two Program Manager positions were reclassified from Health Physicist II positions to Radiation Health Physicist IV positions. Two of the Section's technical staff were promoted to those positions in October 2005. The vacated positions, classified as Radiation Health Physicist III, were filled by other Section staff. Two Section staff members from other program areas filled the resulting Radiation Health Physicist II vacancies. The Radioactive Materials Program has been fully staffed since March 2007. The new Radiation Health Physicist classification system provides increased earning potential and a career ladder that will enhance staff recruiting and retention.

The review team determined that the Section's staffing level is adequate for its licensing, inspection, and incident response duties; however, the Section does not have sufficient resources dedicated to regulation development and maintenance. The status of New Hampshire's regulations required for compatibility is discussed in Section 4.1.2. Security initiatives, such as the Increased Controls and the pre-licensing guidance, limited the availability of the Section's resources for routine activities. Despite the limitations, the Section did not have a backlog of licensing actions or inspections. The review team determined that the Section's staffing levels were adequate at the time of the review; however, future security initiatives could impact the Section's ability to stay current on its licensing, inspection, and incident response duties. The Administrator was cognizant of the need for additional resources and has submitted a request for four additional FTE for the Section. The Administrator's staffing request included one position in the Radioactive Materials Program that would be partially dedicated to regulation development and maintenance.

As noted above, technical staff members are classified as Radiation Health Physicists. Candidates for technical positions are required to have a bachelor's degree in a science or engineering, certification, or equivalent experience in radiation-related work. The qualification requirements logically progressed for positions of increased responsibility. All technical staff members met the qualification requirements for their respective positions.

The Section has a documented training and qualification program for licensing and inspection staff that is consistent with the NRC and Organization of Agreement States Training Working Group Recommendations for Agreement State Training Programs. Qualification is established through a combination of education, experience, and training. The Section considers both attendance at NRC-sponsored courses and alternate resources for training, such as in-house and on-the-job training. The Section also takes advantage of training opportunities with neighboring Agreement State programs. The Section exhibited a strong commitment to training. At the time of the review, only the Radioactive Materials Program Manager (the Manager) and one technical staff member were fully qualified to independently inspect and perform licensing actions for all of New Hampshire's license types. The qualification process is progressing for the other three technical staff members. Qualification of technical staff can take up to 3 years because technical staff is qualified for radioactive materials and radiation machines activities simultaneously.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that New Hampshire's performance with respect to the indicator, Technical Staffing and Training, was satisfactory.

3.2 Status of Materials Inspection Program

The review team focused on five factors while reviewing this indicator: inspection frequency, overdue inspections, initial inspections of new licenses, timely dispatch of inspection findings to licensees, and performance of reciprocity inspections. The review team's evaluation was based on the Section's questionnaire response relative to this indicator, data gathered from the Section's database, examination of completed inspection casework, and interviews with Section managers and staff.

The review team verified that the Section's inspection frequencies for various types of licenses are at least as frequent as the inspection frequencies prescribed by Inspection Manual Chapter (IMC) 2800, "Materials Inspection Program," for equivalent license types. The Section inspects the category, Measuring Systems - Analytical Instruments, more frequently.

In its response to the questionnaire, the Section indicated that there were no high priority (Priority 1, 2, and 3), initial, or Increased Controls inspections currently overdue by more than 25 percent of the inspection frequencies prescribed by IMC 2800 and other applicable correspondence. The review team confirmed this information during the on-site review. The review team also confirmed that no inspections were performed overdue by more than 25 percent of the inspection frequencies prescribed by IMC 2800 during the review period.

The review team determined that the Section has five licensees subject to the Increased Controls, which are additional security requirements. All 5 licensees subject to the additional requirements have had their initial Increased Controls inspection conducted. The Section has developed a plan to incorporate the review of these additional requirements into the next routine health and safety inspections for these facilities.

The review team evaluated the timeliness of the issuance of inspection findings to licensees. The Section's procedures require that inspection findings be issued to the licensee within 30 days of the date of the inspection. Of the 16 inspection files reviewed, all inspection findings were issued within 30 days.

During the review period, the Section granted 13 reciprocity licenses that were candidates for inspection based upon the criteria in IMC 1220, "Processing of NRC Form 241 and Inspection of Agreement State Licensees Operating under 10 CFR 150.20." The review team determined that the Section inspected 7 of the candidate reciprocity licensees during the review period and exceeded the criterion of inspecting at least 20 percent of candidate reciprocity licensees in each of the years covered by the review period, as prescribed by IMC 1220.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that New Hampshire's performance with respect to the indicator, Status of Materials Inspection Program, was satisfactory.

3.3 Technical Quality of Inspections

The review team evaluated inspection reports, enforcement documentation, and inspection field notes and interviewed the responsible inspectors for 15 radioactive materials inspections conducted during the review period. The casework examined included a cross-section of inspections conducted by current inspectors and covered a wide variety of inspection types. These included academic broadscope, brachytherapy, medical institution – written directive required, mobile nuclear medical, industrial radiography, irradiator, nuclear cardiology, calibration/service provider, and reciprocity licensees. Appendix C lists the inspection casework files reviewed and includes case-specific comments.

Based on the evaluation of casework, the review team determined that inspections covered all aspects of the licensees' radiation safety programs. The review team noted that inspection reports were generally thorough, complete, and consistent, with sufficient documentation to

support that the licensees' performances with respect to health, safety, and security were acceptable. In general, inspection report documentation supported violations and recommendations made to licensees.

The Section's inspection procedures are consistent with the inspection guidance found in IMC 2800. The Section requires licensees to respond to any violation within 30 days of issuance of a Notice of Violation. Technical staff reviews all responses for adequacy.

The review team determined that documents involving Increased Controls inspections were protected, segregated, and maintained in a locked file cabinet with limited access. Files were kept in visually distinct folders, identifying the 5 licensees subject to the Increased Controls. The review team determined that most documents were sufficiently marked as sensitive information to be withheld from public disclosure. The review team identified one inspection file for a routine health and safety inspection that contained sensitive information that was not marked and protected properly.

The Manager performed supervisory accompaniments of all inspectors annually; however, the Manager was not accompanied during the review period. The Manager regularly conducted inspections during the review period, but had not been accompanied since before the 2004 IMPEP review. The review team discussed this issue with the Administrator and the Manager. The Administrator agreed to accompany the Manager on a routine basis.

The review team verified that the Section maintains an adequate supply of appropriately calibrated survey instruments to support the inspection program, as well as to respond to radioactive materials incidents and emergency response events. The instruments are calibrated by the manufacturer or a properly licensed facility. The Section has access to the Public Health Laboratory, which is a well-equipped and adequately staffed analytical laboratory. The Public Health Laboratory has broad analytical capability using liquid scintillation counters, gas proportional counters, intrinsic germanium detectors, multichannel analyzers, alpha spectroscopy, and radiochemistry. The laboratory is capable of analyzing a broad range of environmental media.

The review team accompanied all of the Section's qualified radioactive materials inspectors during the weeks of May 13 and July 23, 2008, at a calibration/service facility and hospital. Appendix C lists the inspector accompaniments. The review team noted that the inspectors demonstrated appropriate inspection techniques and knowledge of the regulations. The inspectors were well trained, prepared for the inspections, and thorough in their audits of the licensees' radiation safety programs. The inspectors conducted interviews with appropriate personnel, observed licensed operations, conducted confirmatory measurements, and utilized good health physics practices. The review team determined that the inspections were adequate to assess radiological health, safety, and security at the licensed facilities.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that New Hampshire's performance with respect to the indicator, Technical Quality of Inspections, was satisfactory.

3.4 Technical Quality of Licensing Actions

The review team interviewed license reviewers, evaluated the licensing process, and examined the licensing casework for 10 licensing actions. Licensing actions were reviewed for completeness, consistency, proper possession authorizations, qualifications of authorized users, adequacy of facilities and equipment, adherence to good health physics practices, financial assurance, operating and emergency procedures, appropriateness of license conditions, and overall technical quality. The casework was also reviewed for timeliness, use of appropriate deficiency letters and cover letters, reference to appropriate regulations, supporting documentation, consideration of enforcement history, pre-licensing visits, peer/supervisory review, and proper signatures.

The licensing casework was selected to provide a representative sample of licensing actions completed during the review period. Licensing actions selected for evaluation included 1 new license, 1 renewal, 7 amendments, and 1 license termination. Files reviewed included a cross-section of license types, including: medical diagnostic and therapy, brachytherapy, medical institution – private practice, industrial radiography, portable gauge, fixed gauge, manufacturing/possession, research and development, and academic broad scope licenses. The casework sample represented work from five license reviewers. A listing of the licensing casework reviewed can be found in Appendix D.

Licensing actions are first reviewed by the Manager or a senior staff member prior to being assigned to a technical staff member. Once the technical staff member completes the action, the Manager conducts a supervisory review. Then the license is signed by the Administrator. As an additional level of quality assurance and quality control, the Section has weekly meetings to discuss issues identified during the licensing process.

The review team determined that the staff uses appropriate licensing guidance. Licensing checklists are used for each type of program and are included in the license file. The status of licensing actions is tracked using a log book and the Radiological Administration Data System (RADS) database. The Section generates licenses and correspondence with standardized conditions and formats using program codes listed in the RADS database. The Section issues a complete license for each licensing action. Overall, the review team found that the licensing actions were of adequate quality and generally consistent with the Section's procedures, the State's regulations, and good health physics practices.

The Section issues licenses for a 1-year period based on the collection of an annual fee. The State's regulations require a comprehensive technical renewal to be performed every 7 years.

The review team evaluated the Section's application of the State's financial assurance requirements. The Section has two licenses that require financial assurance. The review team determined that the Section has taken appropriate steps to ensure compliance with the financial assurance requirements. The license review process appropriately identifies licensees required to maintain financial assurance.

The review team examined the Section's licensing practices regarding the Increased Controls and Fingerprinting requirements. The review team noted that the Section added legally binding license conditions to the licenses that met the criteria for implementing the Increased Controls, including fingerprinting, as appropriate. The review team analyzed the Section's methodology for identifying those licenses and found the rationale was thorough and accurate.

The Section performs pre-licensing checks of all new applicants to verify their identity and need for radioactive materials. The Section implemented the pre-license guidance requirements specified in the Office of Federal and State Materials and Environmental Management Programs (FSME) letter issued March 20, 2007 (FSME 07-026). Senior staff members in the Section hand deliver licenses to all new applicants that meet the criteria for the Increased Controls. Licenses will not be issued if the senior staff member determines that the applicant has been untruthful or if suspicious activity is detected. The review team determined that this practice meets the essential objectives of the pre-licensing guidance. The review team discussed the revisions to the pre-licensing guidance that were issued on September 22, 2008, with the Administrator and the Manager.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that New Hampshire's performance with respect to the indicator, Technical Quality of Licensing Actions, was satisfactory.

3.5 Technical Quality of Incident and Allegation Activities

In evaluating the effectiveness of the Section's actions in responding to incidents, the review team examined the Section's response to the questionnaire relative to this indicator, evaluated selected incidents reported for New Hampshire in the Nuclear Material Events Database (NMED) against those contained in the Section's files, and evaluated the casework for four radioactive materials incidents. A listing of the casework examined can be found in Appendix E. The review team also evaluated the Section's response to two allegations involving radioactive materials reported directly to the Section during the review period.

The Section handles incidents and allegations in the same manner. When notified of an incident or an allegation, the Manager and staff discuss the issue and determine the level of initial response based on the health and safety risk. The Section has a spreadsheet to track the status of all incidents and allegations.

The incidents selected for review included one medical event and three incidents involving lost, abandoned, and recovered radioactive material. The review team determined that the Section's responses to incidents were thorough, complete, and comprehensive. Initial responses were prompt and well coordinated. The Section dispatched inspectors for on-site investigations for all incidents. In the majority of cases, the Section immediately dispatched an inspector upon notification of the incident.

The review team evaluated the Section's timeliness in reporting incidents to NRC's Headquarters Operations Center, and determined that, following notification from the licensee, the Section appropriately reported the incidents within a reasonable time frame. Only two events required reporting to NRC during the review period, a lost gauge and a medical event. The medical event was not reported within the required time frame due to conflicts in the dose

calculation; however, the Section reported the event to the NRC as soon as all parties agreed that the delivered dose exceeded the threshold for a reportable medical event. The review team determined that both incidents were appropriately included in NMED.

In evaluating the effectiveness of the Section's response to allegations, the review team evaluated the casework for two allegations. The review team concluded that the Section took prompt and appropriate action in response to concerns raised. The Section notified the alleger of the outcome of the investigation when the alleger's identity was known. The review team determined that the Section can adequately protect the identity of allegers when anonymity is requested.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that New Hampshire's performance with respect to the indicator, Technical Quality of Incident and Allegation Activities, was satisfactory.

4.0 NON-COMMON PERFORMANCE INDICATORS

Four non-common performance indicators are used to review Agreement State Programs: (1) Compatibility Requirements, (2) Sealed Source and Device Evaluation Program, (3) Low-Level Radioactive Waste Disposal Program, and (4) Uranium Recovery Program. NRC's Agreement with New Hampshire does not relinquish authority for a uranium recovery program; therefore, only the first three non-common performance indicators were applicable to this review.

4.1 Compatibility Requirements

4.1.1 Legislation

New Hampshire became an Agreement State on May 16, 1966. The Department is authorized as the State's radiation control agency under the New Hampshire Revised Statutes Annotated (RSA) 1990, Chapter 125. The Section has been delegated to administer the State's radiation control program. The review team did not identify any legislative changes affecting the radiation control program during the review period.

4.1.2 Program Elements Required for Compatibility

The New Hampshire Rules for Control of Radiation are found in He-P 4000-4095 and apply to all ionizing radiation, whether emitted from radionuclides or machine sources. New Hampshire requires a license for possession and use of all radioactive material.

The review team examined the procedures used in the State's administrative rulemaking process and found that the process takes approximately 12 months for rule promulgation. After preparation of a package of draft regulations by the Section, the draft regulations are reviewed by the Department's Administrative Rules Unit. The draft regulations are then sent to the Department Commissioner for approval. Final approval of all regulations is completed by the Joint Legislative Committee on Administrative Rules. The public and other interested parties are provided an opportunity to comment on proposed rules. NRC is provided with draft and final regulations for comment. The State has the authority to issue legally binding requirements

(e.g., license conditions) in lieu of regulations until compatible regulations become effective. Final regulations in New Hampshire are subject to a sunset law and rules expire exactly 8 years after adoption. After expiration, these regulations must be resubmitted in their entirety to remain in effect.

The review team evaluated the Section's response to the questionnaire relative to this indicator, reviewed the status of regulations required to be adopted by the State under the Commission's adequacy and compatibility policy, and verified the adoption of regulations with data obtained from the State Regulation Status sheet that FSME maintains.

Since the last review, the State adopted 17 NRC regulation amendments. The review team identified that 14 of these amendments were overdue at the time of submission to NRC. Some of these were submitted in a time frame significantly longer than 3 years after the effective date of NRC's regulations. Current NRC policy requires that Agreement States adopt certain equivalent regulations or legally binding requirements no later than 3 years after the effective date of NRC's regulations. The following three amendments are overdue, some significantly longer than 3 years from the effective date:

- "Criteria for the Release of Individuals Administered Radioactive Material," 10 CFR Parts 20 and 35 amendment (62 FR 4120), that was due for Agreement State implementation on May 29, 2000.

- "Medical Use of Byproduct Material," 10 CFR Parts 20, 32, and 35 amendment (67 FR 20250), that was due for Agreement State implementation on October 24, 2005.

- "Medical Use of Byproduct Materials - Recognition of Specialty Boards - Part 35," 10 CFR Part 35 amendment (70 FR 16336 and 71 FR 1926), that was due for Agreement State implementation on April 29, 2008.

The review team discussed several options with the Administrator for addressing the overdue amendments, including the use of legally binding requirements and adopting NRC regulations by reference. Subsequent to the on-site review, the State submitted legally binding requirements to NRC for a compatibility review to address the following three amendments:

- "Financial Assurance for Materials Licensees," 10 CFR Parts 30, 40, and 70 amendment (68 FR 57327), that was due for Agreement State implementation on December 3, 2006.

- "Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments," 10 CFR Part 71 amendment (69 FR 3697), that was due for Agreement State implementation on October 1, 2007.

- "National Source Tracking System," 10 CFR Part 20 amendment (71 FR 65865), that is due for Agreement State adoption by January 31, 2009.

The review team identified the following NRC amendments that the State will need to address in the future. The Administrator related that the amendments would be addressed in upcoming rulemakings or through the adoption of alternate legally binding requirements:

- "Minor Amendments," 10 CFR Parts 20, 30, 32, 35, 40, and 70 amendment (71 FR 15005), that is due for Agreement State adoption by March 27, 2009.

- "Medical Use of Byproduct Material – Minor Corrections and Clarifications," 10 CFR Parts 32 and 35 amendment (72 FR 45147 and 72 FR 54207), that is due for Agreement State adoption by October 29, 2010.

- "Requirements for Expanded Definition of Byproduct Material," 10 CFR Parts 20, 30, 31, 32, 33, 35, 61, and 150 amendment (72 FR 55864), that is due for Agreement State adoption by November 30, 2010.

- "Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements," 10 CFR Parts 30, 31, 32 and 150 amendment (72 FR 58473), that is due for Agreement State adoption by December 17, 2010.

- "Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent," 10 CFR Parts 19 and 20 amendment (72 FR 68043), that is due for Agreement State adoption by February 15, 2011.

The review team noted the historical challenge that the State has faced with timely adoption of amendments. The review team discussed strategies for staying current on regulation adoption with the Administrator. The Administrator's proposal for an additional staff member that will be partially dedicated to regulation and development will enhance the State's ability to stay current on regulation adoption; however, in the mean time, the State needs to have a plan to address the overdue amendments while continuing to address the upcoming amendments without falling further behind. The review team recommends that the State develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that New Hampshire's performance with respect to the indicator, Compatibility Requirements, was satisfactory, but needs improvement.

4.2 Sealed Source and Device Evaluation Program

In reviewing this indicator, the review team used three subelements to evaluate the Section's performance regarding the sealed source and device (SS&D) Evaluation Program. These subelements were: (1) Technical Staffing and Training; (2) Technical Quality of the Product Evaluation Program; and (3) Evaluation of Defects and Incidents Regarding SS&Ds.

In assessing the Section's SS&D evaluation activities, the review team examined information contained in the Section's response to the IMPEP questionnaire for this indicator, verified the availability of guidance documents and procedures, and interviewed staff qualified to perform SS&D reviews. The Section did not perform any SS&D reviews during the review period.

4.2.1 Technical Staffing and Training

The Section has three reviewers who are qualified to perform safety evaluations of SS&D applications. All have degrees in a physical science or engineering. Two of the three individuals have attended the NRC's SS&D Workshop. The third individual received on-the-job training from the Massachusetts Radiation Control Program for evaluating SS&D applications. The review team determined that, although the Section did not review any SS&D applications during the review period, the Section has the necessary knowledge and skill among the three reviewers to adequately handle any future applications.

4.2.2 Technical Quality of the Product Evaluation Program

As noted above, the Section did not perform any SS&D reviews during the review period; therefore, the review team did not evaluate this subelement.

4.2.3 Evaluation of Defects and Incidents Regarding SS&Ds

No incidents related to SS&D defects involving sources or devices registered by New Hampshire were reported during the review period. Incident procedures are in place should an SS&D-related incident occur.

Based on the IMPEP evaluation criteria, the review team recommended, and the MRB agreed, that New Hampshire's performance with respect to the indicator, Sealed Source and Device Evaluation Program, was satisfactory.

4.3 Low-Level Radioactive Waste Disposal Program

In 1981, the NRC amended its Policy Statement "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement" to allow a State to seek an amendment for the regulation of low-level radioactive waste (LLRW) as a separate category. Those States with Agreements prior to 1981 were determined to have continued LLRW disposal authority without the need of an amendment. Although the New Hampshire Agreement State Program has LLRW disposal authority, NRC has not required States to have a program for licensing a LLRW disposal facility until such time as the State has been designated as a host State for a LLRW disposal facility. When an Agreement State has been notified or becomes aware of the need to regulate a LLRW disposal facility, it is expected to put in place a regulatory program that will meet the criteria for an adequate and compatible LLRW disposal program. At this time, there are no plans for a commercial LLRW disposal facility in New Hampshire. Accordingly, the review team did not evaluate this indicator.

5.0 SUMMARY

As noted in Sections 3.0 and 4.0, New Hampshire's performance was found satisfactory for six of the performance indicators reviewed and satisfactory, but needs improvement, for the indicator Compatibility Requirements. The review team made one recommendation regarding program performance. Accordingly, the review team recommended, and the MRB agreed, that the New Hampshire Agreement State Program was adequate to protect public health and safety and compatible with NRC's program. The review team recommended, and the MRB agreed, that the next full IMPEP review of the New Hampshire Agreement State Program will take place in approximately 4 years, with a periodic meeting in approximately 1 year to assess the State's adoption of compatibility-required regulatory amendments.

Below are the recommendations, as mentioned earlier in the report, for evaluation and implementation, as appropriate, by the State.

> The review team recommends that the State develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility.

LIST OF APPENDIXES

Appendix A	IMPEP Review Team Members
Appendix B	New Hampshire Organization Charts
Appendix C	Inspection Casework Reviews
Appendix D	License Casework Reviews
Appendix E	Incident Casework Reviews

APPENDIX A

IMPEP REVIEW TEAM MEMBERS

Name	**Area of Responsibility**
Aaron McCraw, FSME	Team Leader Technical Staffing and Training Technical Quality of Incident and Allegation Activities Sealed Source and Device Evaluation Program
Shawn Seeley, Maine	Status of Materials Inspection Program Technical Quality of Inspections Inspector Accompaniments
Donna Janda, Region I	Technical Quality of Licensing Actions Compatibility Requirements Inspector Accompaniments

APPENDIX B

NEW HAMPSHIRE ORGANIZATION CHARTS

ADAMS ACCESSION NO.: ML082830223

APPENDIX C

INSPECTION CASEWORK REVIEWS

NOTE: CASEWORK LISTED WITHOUT COMMENT IS INCLUDED FOR COMPLETENESS ONLY.

File No.: 1
Licensee: QISI License No.: NRC 31-30187-01
Inspection Type: Reciprocity, Unannounced Priority: 1
Inspection Date: 1/9/08 Inspectors: RD, CK

File No.: 2
Licensee: H&H X-Ray Services, Inc. License No.: NRC 17-19263-01
Inspection Type: Reciprocity, Unannounced Priority: 1
Inspection Date: 5/24/06 Inspectors: DC, TK, CK

File No.: 3
Licensee: ABC Testing License No.: MA 19-7781
Inspection Type: Reciprocity, Unannounced Priority: 1
Inspection Date: 7/24/08 Inspector: RD

Comments:
a) The inspection report did not document if additional security requirements had been observed.
b) The field note form did not indicate the type of survey instrument utilized for independent measurements.

File No.: 4
Licensee: American Health Center, Inc. License No.: 450R
Inspection Type: Routine, Unannounced Priority: 3
Inspection Date: 2/15/08 Inspector: TK

File No.: 5
Licensee: Dartmouth College License No.: 328R
Inspection Type: Routine, Unannounced Priority: 2
Inspection Date: 9/13/06 Inspectors: TK

File No.: 6
Licensee: Dartmouth College License No.: 328R
Inspection Type: Routine, Unannounced Priority: 2
Inspection Date: 7/25/07 Inspectors: RD

Comment:
Field notes contained potentially sensitive information that was not marked accordingly.

File No.: 7
Licensee: University of New Hampshire
License No.: 190R
Inspection Type: Routine, Unannounced
Priority: 3
Inspection Date: 12/7/06
Inspectors: RD, TK, CK, TL, DL

File No.: 8
Licensee: QAL
License No.: 439R
Inspection Type: Routine, Unannounced
Priority: 1
Inspection Date: 5/23/07
Inspector: RD

File No.: 9
Licensee: QAL
License No.: 439R
Inspection Type: Routine, Unannounced
Priority: 1
Inspection Date: 7/10/08
Inspector: RD, CK

File No.: 10
Licensee: Wentworth-Douglass Hospital
License No.: 206R
Inspection Type: Routine, Unannounced
Priority: 2
Inspection Date: 11/8/06
Inspectors: RD, TL

File No.: 11
Licensee: Concord Hospital
License No.: 261R
Inspection Type: Routine, Unannounced
Priority: 3
Inspection Date: 6/27/07
Inspectors: TK, TL

File No.: 12
Licensee: Cardiac Associates of NH
License No.: 454R
Inspection Type: Initial, Announced
Priority: 5
Inspection Date: 10/17/06
Inspectors: RD, TL

File No.: 13
Licensee: Parkland Medical Center
License No.: 308R
Inspection Type: Routine, Unannounced
Priority: 3
Inspection Date: 6/19/07
Inspectors: TK, TL, DL

File No.: 14
Licensee: RSCS
License No.: 381R
Inspection Type: Special, Announced
Priority: 5
Inspection Date: 5/13/08
Inspectors: RD, TK

Comment:
Supervisory review of inspection findings was not documented.

File No.: 15
Licensee: Valley Regional Hospital
License No.: 257R
Inspection Type: Routine, Unannounced
Priority: 5
Inspection Date: 7/23/08
Inspector: CK

INSPECTOR ACCOMPANIMENTS

The following inspector accompaniments were performed prior to the on-site IMPEP review:

Accompaniment No.: 1
Licensee: RSCS
License No.: 381R
Inspection Type: Special, Announced
Priority: 5
Inspection Date: 5/13/08
Inspectors: RD, TK

Accompaniment No.: 2
Licensee: Valley Regional Hospital
License No.: 257R
Inspection Type: Routine, Unannounced
Priority: 5
Inspection Date: 7/23/08
Inspector: CK

APPENDIX D

LICENSE CASEWORK REVIEWS

NOTE: CASEWORK LISTED WITHOUT COMMENT IS INCLUDED FOR COMPLETENESS ONLY.

File No.: 1
Licensee: University of New Hampshire — License No.: 150R
Type of Action: Amendment (denied in part) — Amendment No.: N/A
Date Issued: 3/16/05 — License Reviewer: TK

File No.: 2
Licensee: Elliot Hospital — License No.: 182R
Type of Action: Amendment — Amendment No.: 87
Date Issued: 8/25/08 — License Reviewer: CK

File No.: 3
Licensee: Catholic Medical Center — License No.: 109R
Type of Action: Amendment — Amendment No.: 64
Dates Issued: 11/10/05 — License Reviewer: TK

File No.: 4
Licensee: GeoInsight — License No.: 456R
Type of Action: New — Amendment No.: N/A
Dates Issued: 12/17/07 — License Reviewers: VJ, TK

File No.: 5
Licensee: Seacoast Cardiology Associates, P.A. — License No.: 389R
Type of Action: Amendment — Amendment No.: 13
Date Issued: 11/22/04 — License Reviewer: AB

File No.: 6
Licensee: Nylon Corporation of America, Inc. — License No.: 142R
Type of Action: Amendment — Amendment No.: 30
Date Issued: 2/21/06 — License Reviewer: TK

File No.: 7
Licensee: Quality Assurance Laboratories, Inc. — License No.: 439R
Type of Action: Amendment — Amendment No.: 4
Dates Issued: 5/30/06 — License Reviewers: VJ, TK

File No.: 8
Licensee: Wentworth-Douglass Hospital — License No.: 206R
Type of Action: Amendment — Amendment No.: 66
Date Issued: 9/6/07 — License Reviewer: RD

File No.: 9
Licensee: Schleicher & Schuell BioScience, Inc. License No.: 447R
Type of Action: Termination Amendment No.: 6
Date Issued: 8/17/05 License Reviewer: TK

File No.: 10
Licensee: Osram Sylvania Products, Inc. License No.: 430R
Type of Action: Renewal Amendment No.: 10
Dates Issued: 4/4/08 License Reviewer: TK

APPENDIX E

INCIDENT CASEWORK REVIEWS

NOTE: CASEWORK LISTED WITHOUT COMMENT IS INCLUDED FOR COMPLETENESS ONLY.

File No.: 1
Licensee: John Turner Consulting, Inc.
Date of Incident: 2/20/07
Investigation Date: 2/21/07
License No.: 423R
NMED No.: 070099
Type of Incident: Lost material
Type of Investigation: Site

File No.: 2
Licensee: Mary Hitchcock Memorial Hospital
Date of Incident: 3/3/06
Investigation Date: 3/16/06
License No.: 130R
NMED No.: 060209
Type of Incident: Medical event
Type of Investigation: Licensee report

File No.: 3
Licensee: Seabrook Transfer Station
Date of Incident: 8/11/08
Investigation Date: 8/11/08
License No.: N/A
NMED No.: N/A
Type of Incident: Abandoned material
Type of Investigation: Site

File No.: 4
Licensee: Concord Hospital
Date of Incident: 3/11/08
Investigation Date: 3/11/08
License No.: N/A
NMED No.: N/A
Type of Incident: Recovered material
Type of Investigation: Site