



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

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JUL 2 1980

Ref: SA/JOL

Leonard Solon, Ph.D., Director
Bureau for Radiation Control
New York City Department of Health
377 Broadway
New York, New York 10013

Dear Dr. Solon:

This is to confirm the comments made to you regarding the recent regulatory program review held by Mr. Lubenau on June 3-6, 1980.

As noted in our letter to Commissioner Ferrer, we were pleased to find that position descriptions for the radioactive materials professional staff have been revised. We also expressed our strong support for the proposed revision of the fee schedule and endorsed your staff's efforts to obtain automated data processing services for the radioactive materials program.

As a result of the review, we developed a number of comments and recommendations designed to improve and strengthen the radioactive materials program. These are contained in the enclosure and I would appreciate your response to them.

I appreciate the courtesy and cooperation extended by you and your staff to Mr. Lubenau.

Sincerely,

G. Wayne Kerr, Assistant Director
for State Agreements Program
Office of State Programs

Enclosure:
As stated

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State Program - N.Y. file

COMMENTS AND RECOMMENDATIONS FOR THE
NEW YORK CITY DEPARTMENT OF HEALTH RADIATION CONTROL PROGRAM

I. Management and Administration

1. The City's plan for response to local emergencies involving agreement materials was prepared in 1976 and has not been updated since. We found that the listing for the U.S. Department of Agriculture (USDA) as a source of services for analyzing samples, including food, for radioactivity should be deleted: USDA no longer has the equipment nor capability.

We recommend reviewing the plan annually for adequacy and to assure the content is current. We suggest all pages be dated and marked as revised when revised. A distribution list should be prepared and copies distributed to, among others, all persons identified in the plan as contacts.

2. We suggested changes be made in the licensing log to improve the ability of the staff and supervision to assess backlogs.
3. Significant deficiencies currently exist in the program's laboratory support. Although many of the City's licensees are authorized to use unsealed sources of tritium and other low energy beta emitters, the City currently has no capability to analyze wipes collected by inspectors for such contamination. The currently available instrumentation is old, susceptible to breakdowns, and severely limits the types and numbers of samples that can be collected by inspectors for analyses. Calibration of the instrumentation appeared to be tenuous. We also found that compliance personnel, including supervisors, do not have keys for the building and the labs and might not be able to gain access to the lab, if it were necessary to analyze samples during non-routine hours, e.g. during an emergency.

The City should have either in-house capability or readily available to it through established procedures, sufficient laboratory support to conduct analyses of wipes, bioassay samples, air samples and other samples collected by inspectors on a priority established by the radiation control program.

The City may wish to consult with the New York State Department of Labor, whose radiation control program is also located in Manhattan, to explore the feasibility of sharing equipment needed in common and thus help reduce budget outlays for both Agencies.

II. Personnel

1. We recommend that new members of the inspection staff attend the nuclear medicine radiation safety and the inspection procedures courses. NRC will fund travel and per diem costs for qualified candidates.

III. Licensing

1. We believe the following improvements can be made in licensing:
 - A. License applications for renewal should be examined in light of current license requirements. Renewals represent an opportunity to upgrade licenses. At such times, outdated and old references should be deleted. Such practices, if followed, will make the license easier for inspectors to inspect against as well as being consistent with current regulatory practices.
 - B. License applicants, including those for renewal, should be asked to provide detailed information on their radwaste packaging and disposal practices along the lines of NRC Bulletin 79-20.
 - C. Licensing procedures and guidance are currently kept in three places: (1) A Licensing Manual, (2) A set maintained by the license reviewer and (3) Materials kept for distribution to license applicants. There are differences in content and some of the contents are out-of-date. We recommend these sources be consolidated, out-of-date materials purged and the contents be updated.
 - D. We commend the professional staff's efforts to bind file materials to the folders and to create field folders. More needs to be done, however, and preferably by clerical staff. Many files still contain loose materials that are not in chronological order and cases were noted where file contents were removed from the office file to the field folder without duplicates being made. We understand that, at the meeting with Commissioner Ferrer, additional clerical help is to be made available to the program.
2. We recommend the license reviewers be provided regular opportunities to accompany inspectors to observe application of regulatory and radiation safety practices and improve cross-communications.

IV. Compliance

1. We recommend revision of one part of the license card system so that it can be used for identifying and scheduling licenses for inspection. The revised system can be used until such time that automated data processing can provide this service.
2. We recommend development and documentation of procedures for handling escalated enforcement action. These should contain criteria for taking various types of escalated enforcement actions (e.g. management conferences, issuance of summaries, and issuance of Orders), access to legal staff, and coverage for non-routine working hours. Copies of G. Wayne Kerr's All Agreement State Letters dated October 23, 1979 and January 14, 1980 re this subject are attached.

3. We found that, through no apparent fault of the City, the radiation control program does not have copies of current inspection guides for inspections of academic and medical licensees and inspections of waste disposal practices. These are all critical to the compliance program. Copies are attached and we recommend they be distributed to the staff and implemented. We again found deficiencies in the documentation of inspections. The reports do not adequately document the scope of the inspection nor adequately support the items of noncompliance. NRC will, very shortly, issue guidance on documentation of inspections. We recommend the City carefully review the guidance and revise its reporting practices to the maximum extent possible. We understand that during the meeting with Commissioner Ferrer, no objections were expressed to the staff's proposal to replace the "Facility" and "Source" inspection forms with report forms that conform to our forthcoming guidance or documentation, and that will be consistent with current inspection guides. We also recommend development of a procedure to maintaining licensee's compliance histories. A copy of State Agreement Information Notice H.3, dated March 21, 1978 on this subject is attached.
4. The current productivity goals of 3 inspection sites per field day and 4 days out of 5 in the field are affecting the quality of the inspections and do not allow for variations in time necessary because of different scope and complexity of licensee operations. We have commented on this in previous reviews. In the one day a week in the office, inspectors are expected to:
 - A. Complete reports of inspections and prepare correspondence for past inspections,
 - B. Attend staff meetings,
 - C. Make telephone calls to set up inspections for the coming week,
 - D. Pull appropriate files and copy necessary file materials for field use (field file), and
 - E. Read and become sufficiently acquainted with each license to be inspected so that the inspection is complete and conducted in sufficient depth to adequately assess the licensee's compliance with the regulations and the license.

Our reviews of reports and results of accompaniments in this and previous reviews show the objective of item E is not being accomplished because of management emphasis on productivity without a counter-balancing stress on quality. The productivity goal of 4 days in the field out of every 5 work days does not permit adequate opportunity for inspectors to properly prepare for inspections. In sharp contrast, NRC inspection practice results in a mix of 40% of time in the field vs. 60% in the office. Obviously, travel times are different for NRC, however, travel represents only 9% of NRC inspection time.

We urge a reassessment be made of productivity goals currently in place for inspectors. We will be pleased to meet with City representatives to develop a program for productivity and quality that is mutually acceptable.

5. Our review disclosed several kinds of field instruments are not currently available for use by the inspectors. Specifically, the following instruments are needed:
 - A. Alpha survey meter. (A gas-flow meter is available but there are no gas bottles. A better alternative would be a scintillation-type meter).
 - B. Neutron survey meter. (The City may wish to contact the New York State Department of Labor and explore the possibility of sharing one).
 - C. Air Samplers
 - (1) Low volume. (One is available but it needs calibration, a filter holder, and appropriate collection media).
 - (2) Lapel air sampler.
 - D. Smoke Tubes.



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JUL 2 1980

Ref: SA/JOL

Reinaldo A. Ferrer, M.D., Commissioner
New York City Department of Health
125 Worth Street
New York, New York 10013

Dear Dr. Ferrer:

This is to confirm the discussion Mr. Lubenau held with you and members of your staff following our review and evaluation of the New York City Department of Health radiation control program. The review covered the principal administrative and technical aspects of the program for control of hazards from radioactive materials.

We were pleased to find that the Department was successful in revising the position descriptions for the radioactive materials professional staff.

We noted that the City has a proposed revision to its fee schedule. The proposal should enhance the funding of the radioactive materials program and we strongly support it. Eleven of the Agreement States charge fees and licensees in the 24 States under NRC jurisdiction are subject to fees. Thus, users in 70% of the States are subject to fees that help support regulatory programs for the protection of the public health and safety.

We found that staff efforts are underway to obtain automated data processing services for the radioactive materials program. We believe these efforts should be completed as soon as possible. The radioactive materials program will reap considerable benefits in efficiency and in planning from having such services available.

We have previously commented on the need to provide adequate clerical assistance so that professional personnel are not obligated to perform filing and other clerical functions. We again find it necessary to comment on the need to free professional personnel from clerical duties.

Overall, improvements are needed in the compliance program. We found that the program, through no fault of its own, has not received copies of current inspection guidance, including recently issued guidance on inspection of radwaste packaging and shipping practices. These have now been mailed to the staff. We again found deficiencies in documentation of inspections. Our review of laboratory and field instrumentation disclosed that a serious need exists for upgrading and improving the equipment. Lastly, we again concluded that the current 80%/20% field to office mix does not provide adequate office time for

Reinaldo A. Ferrer, M.D.

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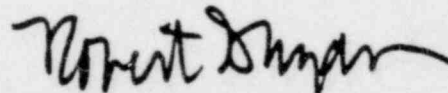
inspectors to prepare for inspections. Consequently, in attempting to meet numerical productivity goals, inspection quality has suffered. NRC practice results in a field/office mix of about 40%/60%. We will be pleased to meet with your staff to work out a program that incorporates acceptable productivity goals together with mutually agreeable standards for inspection quality and documentation.

We believe there should be an opportunity for the City to review current inspection procedures and documentation practices, upgrade its radiation detection equipment, and re-examine its goals for the compliance program. Consequently, we plan to complete the review of the New York City programs in late 1980. At that time, we will reassess the compliance program and hope to be prepared at that time to offer our findings for adequacy and compatibility.

I would appreciate your response to these comments. Enclosed is a copy of our letter to Dr. Solon concerning the technical aspects of the program (including detailed comments on the compliance program). I am enclosing a second copy of each letter which should be placed in the City's Public Document Room or otherwise be made available for public review.

I appreciate the courtesy and cooperation extended to Mr. Lubenau.

Sincerely,



Robert G. Ryan, Director
Office of State Programs

Enclosures:
As stated

cc w/encls.: JCropper
TKDeBoer
NRC Public Document Room
State Public Document Room
LSolon, w/o encls.