

JUL 30 1980

Ref: SA/KIS

Mr. Howard L. Goldman, Director
Bureau of Radiation Control
New York State Department of Health
Empire State Plaza
Tower Building
Albany, New York 12237

Dear Mr. Goldman:

This will confirm the discussion Mrs. Kathleen Schneider held with you on July 18, 1980, concerning the results of our partial review and evaluation of the Bureau's radiation control program. We believe it is important that the review include as many field evaluations of the inspection staff as is possible because of the numerous deficiencies in the inspection reports.

Since the review is not complete, we are not prepared to make recommendations of adequacy and compatibility at this time. Several comments and recommendations were developed, however, relating to the technical aspects of the agreement material program and these are enclosed. I would appreciate receiving your comments on these.

I appreciate the courtesy and cooperation extended to Mrs. Schneider during the review.

Sincerely,

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

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Enclosure:
As stated

cc: David Axelrod, M.D.

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OFFICE	SA	<i>[Signature]</i>			
SURNAME	KNSchneider:des	GWKerr			
DATE	7/29/80	7/29/80			

COMMENTS ON NEW YORK STATE HEALTH PROGRAM

I. Licensing

A. Comment

During the review of selected license files it was noted that some licenses were issued while adequate replies to deficiency letters had not been received. It was noted that this comment was made during last year's review.

Recommendation

We recommend that licenses not be issued until all unresolved application deficiencies have been adequately addressed.

B. Comment

A review of selected license files indicated that several licenses authorizing possession of plutonium, that the license condition banning air shipments was omitted.

Recommendation

We recommend that the license condition banning air shipment of plutonium except in NRC approved containers be included on all licenses authorizing the use of plutonium.

II. Compliance

A. Comment

During discussion with the staff concerning the implementation of our comments from last year's review, it was noted that Erie College, which possess industrial radiography devices for teaching, had its inspection priority changed to yearly as recommended. However, this license is now 8 months overdue for inspection.

Recommendation

We recommend that this license be scheduled for inspection as soon as possible due to the potential hazard presented by these devices.

B. Comment

It was noted, from a review of selected compliance files, that few independent surveys were obtained at facilities using significant quantities of radionuclides.

Recommendation

We recommend that independent radiation surveys be made routinely during inspections and wipe samples be obtained and evaluated. The results of these surveys and analyses should be documented in inspection report.

C. Comment

A review of selected compliance files revealed that enforcement letters are not always issued within 30 days following the inspection. Also, the licensee responses to enforcement letters are not always acknowledged.

Recommendation

We recommend that enforcement letters be issued within 30 days following the inspection and licensee responses to enforcement letters be promptly acknowledged as to adequacy and resolution of unresolved items.

D. Comment

During discussions with the staff concerning the implementation of comments made from last year's review, it was revealed that inspectors are still not performing independent evaluations of airborne contamination. Their inspection equipment does not presently include devices needed to make such evaluations.

Recommendation

We believe that the Bureau should provide inspectors with smoke tubes and low volume (or lapel) air samplers. These could be used during routine inspections as well as during incident investigations.

E. Comment

Compliance reports and notes generally lacked detail in the area of interviewing workers for their knowledge of radiation safety. This comment was made during last year's review.

Recommendation

We recommend that radiation workers be interviewed to determine the extent of their knowledge of radiation safety, regulatory requirements and emergency procedures. These interviews should be documented in summary form in the inspection report.

F. Comment

We are pleased to note that one inspector's enforcement letters clearly specifies all items of noncompliance and health and safety matters identified during the inspection and cites the appropriate regulation or license condition being violated. We note, however, not all inspectors use this format and in some instances the enforcement letters are confusing.

Recommendation

We recommend that all inspectors use the same format for enforcement letters which cites the appropriate regulation or license condition being violated and clearly specifies all items of noncompliance and health and safety matters identified during the inspection. Closer supervisory reviews would help in maintaining consistency of letters.

G. Comment

During the review of selected compliance files, the State University of New York at Albany inspection report revealed a number of significant deficiencies as follows:

1. The most recent report had no indication whether previous items of noncompliance were reviewed.
2. The short period during which this inspection was conducted compared to previous inspections is inconsistent with the scope of licensed activities.
3. It was not clear from the report what records the inspector actually reviewed.
4. There is no discussion of the size of the program or scope of use in the inspection report.
5. The report indicated that only the RSO was interviewed during inspection and no other radiation workers or management officials were interviewed.
6. The inspector had checked "not applicable" in the section of the report for inspectors performing independent wipe samples and radiation surveys.
7. There was no discussion of a bioassay program for tritium.

Recommendation

From discussions with the staff, it was revealed that the inspector had considered this inspection a complete routine inspection. Program management, however, classified the inspection as a "follow-up partial" inspection. We recommend that the licensee be scheduled for a complete inspection as soon as possible.

H. Comment

The review of compliance files revealed that inspectors are not always citing medical licensees for items of noncompliance when the medical isotope committee has not met with required frequency. In several instances, the inspectors recommended the licensee request an amendment to change the frequency of meeting for the medical isotope committee when the licensee claimed it is not possible to meet at the specified frequency.

Recommendation

We recommend that the inspectors cite medical licensees for noncompliance when the medical isotope committee has not met at the specified frequency. Inspectors should not recommend license amendments for large active medical license to change the frequency of medical isotope committee meeting. The licensing requirements for meetings should be adhered to by the inspection staff.

I. Comment

The review of the inspection reports revealed that in most instances the reports were difficult to read, inconsistent and inadequate in some respects. It was not always possible to determine from the report the scope of the inspection, substantiation for items of noncompliance, scope of the licensee program and previous items of noncompliance. Although the reports were reviewed by management, there appears to have been no action by the supervisory staff to correct these deficiencies.

Recommendation

We are aware of the recent reorganization and new supervisory staff, however we recommend that the inspection reports be carefully monitored by the supervisory staff. The staff should implement as soon as possible Information Notice H.6 - Documentation of Inspections, sent to All Agreement States June 18, 1980 for use by the compliance staff.

III. Training

A. Comment

During the review of a teletherapy inspection report, it appeared that the inspector did not consider the appropriate areas during the inspection. One teletherapy unit records were not reviewed and the survey around the teletherapy head was inadequate.

Recommendation

We recommend that this inspector receive instruction and supervision in the elements of a teletherapy license inspection before he inspects teletherapy licenses independently.



STATE OF NEW YORK
DEPARTMENT OF HEALTH
ALBANY

DAVID AXELROD, M.D.
COMMISSIONER

August 11, 1980

Dear Mr. Kerr:

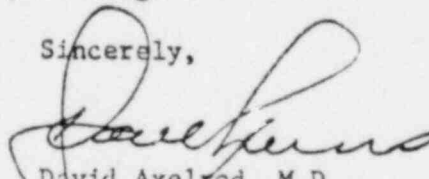
Thank you for forwarding to me the constructive suggestions resulting from the review of this Department's program for regulation of agreement materials. You may be assured that we will endeavor to address the deficiencies in as expeditious a manner as current resources permit.

The difficulties experienced by this Department in fulfilling the requirements of the state/federal agreement are not unique to this state. As I am sure you will recall, Representative Udall conducted hearings in Washington in June of 1979 to consider the effectiveness of the regulatory programs in existence in the 25 agreement states. The difficulty is not with the desire to provide the highest level of protection for public health, but rather with the allocation of scarce resources to meet the myriad of obligations for which the states are responsible. While we indeed are committed to correcting the deficiencies outlined in your recent letter of August 6, we, at the same time, require additional resources to support the activities associated with the compliance program.

To assist the agreement states, I would urge that a grants or contract program be developed to provide funding for the mandates to permit the states to exercise the responsibilities originally bestowed upon the Atomic Energy Commission. I would also urge that the initiatives of Representative Udall not be permitted to lie fallow. A meeting of the agreement states with the Nuclear Regulatory Commission would be an appropriate vehicle to discuss how a closer collaborative program for shared responsibility between the state and federal governments might be developed.

We look forward to an early meeting.

Sincerely,


David Axelrod, M.D.
Commissioner of Health

G. Wayne Kerr, Acting Director
Office of State Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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STATE OF NEW YORK
DEPARTMENT OF HEALTH  OFFICE OF PUBLIC HEALTH

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DAVID AXELROD, M.D.
Commissioner

LOCAL HEALTH MANAGEMENT

GLENN E. HAUGHIE, M.D.
Director of Public Health

WILLIAM F. LEAVY
Director

August 15, 1980

Mr. G. Wayne Kerr, Assistant Director
for State Agreements Program
Office of State Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Kerr:

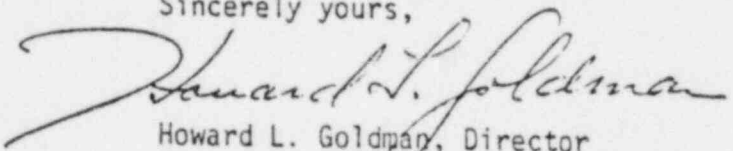
We are in receipt of your letter dated July 30, 1980, which summarizes the findings found in our program by Mrs. Kathleen Schneider during her recent visit to this office. We have reviewed the comments and recommendations made for improving our agreement materials program.

You may be confident that we will correct the deficiencies to the extent that manpower and resources allow. The difficulties we are having in obtaining these two items was pointed out in Commissioner Axelrod's letter to you dated August 11, 1980.

Upon your completion of the review and evaluations of our control program and the receipt of your final report we will be in a position to make specific comments on your recommendations.

We appreciate having a representative of your staff review and evaluate our program.

Sincerely yours,


Howard L. Goldman, Director
Bureau of Radiation Control

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POOR ORIGINAL

David Axelrod, M.D., Commissioner
New York State Department of Health
Empire State Plaza
Tower Building
Albany, New York 12237

Dear Dr. Axelrod:

I appreciate receiving your letter of August 11, 1980 regarding the results of our July review of the Department's radiation control program for agreement materials. As noted in my letter of August 6 we plan to complete the review by accompanying field inspectors later. These accompaniments have been scheduled for the week of September 8, 1980.

In your letter you mention initiatives of Congressman Udall resulting from the 1979 hearings on the Agreement State program. It is unclear to us what specific initiative of Congressman Udall you are referencing. We would support any recommendations that would strengthen and improve our administration of this program.

You also suggest a meeting of the Agreement States to discuss our mutual responsibilities. We have held an annual meeting of Agreement State representatives for many years to discuss a wide variety of regulatory topics. The next such meeting will be held in Atlanta October 7-9, 1980. The meeting is designed for attendance and participation by the Program Directors of the Agreement State regulatory agencies. We would certainly welcome your attendance if your schedule permits.

I think it would be useful for me to meet with you and other appropriate State officials at a mutually convenient time. In view of our pending completion of the review in early September I would suggest a possible meeting date in late September. I will contact you in a couple of weeks to arrange such a meeting when we can discuss this program in more detail and explore some means of addressing the problems facing the Health Department in the administration of the agreement materials program.

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POOR ORIGINAL

David Axelrod, M.D.

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I look forward to working with you to achieve our mutual goal of adequately protecting the public health and safety from radiation hazards.

Sincerely,

G. Wayne Kerr, Acting Director
Office of State Programs

cc: T. K. DeBoer
H. Goldman
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State Public Document Room w/incoming

bcc: T. Elsasser, w/incoming

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