

October 25, 1989

William T. Wallace, M.D., M.P.H.
Director
Division of Public Health Services
State Department of Health and Welfare
6 Hazen Drive
Concord, New Hampshire 03301

Dear Dr. Wallace:

Subsequent to our last review of the State's radiation control program, you provided a plan in a letter dated May 10, 1989 for addressing the program deficiencies which we identified. We are planning a follow-up review of your program in the near future and, in preparation for that review, would appreciate a short status report on the specific objectives and milestone outlined in your plan. We are especially interested in your resolution of your staff shortage.

Thank you for your cooperation.

Sincerely,

original signed by Vandy L. McEwen
for

Carlton Kammerer, Director
State, Local and Indian Tribe Programs
Office of Governmental and Public Affairs

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M. Mary Mongan
Commissioner

William T. Wallace, Jr., M.D., M.P.H.
Director
Division of Public Health Services

Health & Welfare Bldg.
6 Hazen Drive
Concord, NH 03301-6527
Tel. (603) 271-4501

December 18, 1989

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GPA/SLIP

Mr. Carlton Kammerer, Director
State, Local and Indian Tribe Programs
Office of Governmental and Public Affairs
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Mr. Kammerer:

This refers to your letter of October 25, 1989 requesting a status report on the specific objectives and milestones outlined in our plan as submitted on May 10, 1989. In response I am providing a status update for each corrective action given in the May 10, 1989 letter along with a revised plan (reference attachment I).

1. INDICATOR: Status of Inspection Program (Category I)

DEFICIENCY: Approximately 50% of the license inspections are past due with 10% overdue by NRC criteria (i.e., overdue by more than 50% of their inspection frequency).

CORRECTIVE ACTION: The specific plan for addressing the inspection backlog has been prepared and is currently underway. According to this plan, all overdue (> 50% of inspection interval) Priority I to include a safety inspection of Dartmouth Medical/College will be complete by July 1, 1989; Priority II by December 31, 1989 and Priority III by December 31, 1989. The remainder of past due inspections (i.e., 50% of inspections interval) should be caught up by April 30, 1990.

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CURRENT STATUS: Dartmouth Medical/College's (Priority I) safety inspection was completed on June 6, 1989. However, the Bureau's backlog of license inspections will remain with 48 inspections overdue as of December 31, 1989; 17 of these (3 Priority I, 8 Priority II and 6 Priority III) are overdue by NRC criteria. The plan has been revised to reflect new dates for completion of this item.

2. INDICATOR: Enforcement Procedures (Category I)

DEFICIENCY: State has not promulgated regulations for implementation of civil penalties or developed standard procedures for escalated enforcement actions.

CORRECTIVE ACTION: Regulations for allowance of civil penalties are intended to be included in the upcoming revision of the Rules. The escalated enforcement procedures in place, although unwritten, have sufficed to allow for execution of all necessary enforcement actions to date. It is our intent, however, to document these procedures in writing and to add the provisions necessary for allowance of civil penalty actions. We further intend to have a first draft of these procedures by end of November, 1989.

CURRENT STATUS: The regulations for allowance of civil penalties should be complete with the revision of the current Rules (Ref. Item 3 below). The Bureau has developed model citations as a beginning in the development of standard procedures for escalated enforcement actions. The first draft of these procedures we intend to have complete by February 1990.

3. INDICATOR: Status of Regulations (Category I)

DEFICIENCY: The New Hampshire Rules For The Control of Radiation are not compatible with the NRC's regulations in that New Hampshire has not adopted the rule revisions designated as being "a matter of compatibility for Agreement States" within the three year period following NRC's final rule designation.

CORRECTIVE ACTION: We are aware of the necessity for revision of our Rules in order to remain compatible with the NRC and other Agreement States. The Bureau fully intends to not only revise its Rules, but to also include new rules necessary to become a Conference of Radiation Control Program Directors designated Licensing State and to allow for civil penalties and surety bonding in accordance with NH Statutes. Such rules are set to be in place by July 31, 1990. In the interim we do not see a need to develop, as recommended, such policy statements, orders and other administrative actions in order to be assured that the licensees are complying with some of the new NRC regulations. We remind you that NH has already in place rules requiring reporting of medical misadministrations and compliance with DOT transportation of radioactive material. Also the license reviews and conditions of use for our two industrial radiography licensees do

reflect NRC's changes in requirements and our work with GTE Sylvania has made us extremely cautious in granting any Source Material exemptions. We believe that instead of prolonging the Rule revision with time-consuming development of administrative actions in areas we believe already covered, it would be more beneficial having our staff address the major deficiencies noted in your letter and to begin Rule revision at once.

CURRENT STATUS: The Bureau is presently in the very early stages of the rule revision process and does intend to devote much more time to this task over the next few months. The schedule delay however, has postponed our planned completion date from July 31, 1990 to a more realistic date of October 31, 1990.

4. INDICATOR: Staffing Level (Category II)

DEFICIENCY: The NH radioactive materials program effort does not meet the minimum of 2 FTE as required.

CORRECTIVE ACTION: We agree that additional staff is necessary for elimination of the above noted deficiencies and for continued adequate performance. Budget restraints however, have precluded the addition of this needed staff. A request was made on February 1, 1989 for review of a currently vacant Bureau of Radiological Health Laboratory Scientist III-Radiochemist position for upgrade and reallocation to Health Physicist I under the supervision of Mr. Dennis O'Dowd, Radioactive Material Section. This request is currently under review by the NH Division of Personnel. Should this position be approved as Health Physicist I, and we are confident that it will be, the staffing level in the Radioactive Material Section would approach 2.0 FTE. In order to bring the staffing level to a full 2.0 FTE, it is the intent of the Bureau Administrator to further request the addition of another Health Physicist I position in the next biennial budget (FY 92/93).

CURRENT STATUS: The position discussed above was approved by the Division of Personnel on June 6, 1989, and was posted for in-house applicants. One person, an individual already working for the Bureau, applied as the only in-house applicant. The Division of Personnel however, did not deem this individual to meet the minimum qualifications. Subsequently, memos were written by me to the Division of Personnel requesting reconsideration and application of more realistic qualification criteria that had been used in the previous evaluations. We now await the final decision from the Division of Personnel. Should this decision not be favorable, we shall then go to general recruitment.

Also, we note that a footnote to the FY 90 budget unfunded (abolished) any positions which were vacant on April 1, 1989. As the Laboratory Scientist III/Health Physicist position was one of these, it ceased to exist effectively in that date. The position however, was reinstated as a full-time temporary position funded by the Preventive Health and Health Services Block Grant. These monies will continue to fund the position through June 30, 1990. There will be an attempt during the upcoming off-year legislative session to revise the budget to fully reinstate this position.

5. INDICATOR: Budget (Category II)

DEFICIENCY: The current budget for the radioactive material program lacks sufficient funds for administrative needs of the program in that all funds for current expenses and in-state travel were depleted by end of October (4 months into the fiscal year).

CORRECTIVE ACTION: Sufficient monies for necessary functions is an ongoing concern within the Division. Currently the budget for the next biennium is being discussed by the NH legislature. The Division's Radiological Health budget request was based on a statewide edict not to exceed 97% of the past year's budget. Since our submittal, many different versions of the budget having varying proposed appropriations have emerged. It is difficult to guess which of these many versions will become the final budget for the Division and Radiological Health for FY 90/91. However, I can assure you that sufficient funds will be made available to provide the administrative support to staff.

CURRENT STATUS: The appropriation which did emerge as the FY 90 budget provided little improvement for operating and travel expenses over the FY 89 budget - - because of the previously referenced 97% mandate. We have, therefore, relied upon the Preventive Health and Health Services Block Grant monies to sustain operations for this fiscal year.

6. INDICATOR: Confirmatory Measurements (Category II)

DEFICIENCY: The Bureau's alpha survey equipment is not adequate for conducting surveys in that it is old and unreliable.

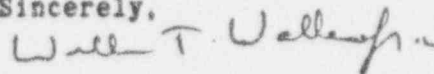
CORRECTIVE ACTION: The Bureau has ordered new instrumentation to include an alpha survey meter.

CURRENT STATUS: The Bureau has received its new instrumentation to include the alpha survey meter.

Mr. Kammerer
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I continue to be available for any questions or further discussion as relative to this response. Should you have questions be of a technical nature, I advise that you contact either Diane Tefft or Dennis O'Dowd directly.

Sincerely,



William T. Wallace, Jr., MD, MPH
Director
Division of Public Health Services

WTW/mb

cc: M. Mary Mongan
John McGrath
Dennis O'Dowd
Diane Tefft
Jack Stanton
George Iverson

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