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March 28, 2001

Gene Miskin
Director
New York City Department of Health
Office of Radiological Health
2 Lafayette Street, 11th Floor
New York, NY 10007

SUBJECT: PERIODIC MEETING SUMMARY FOR NEW YORK CITY DEPARTMENT OF HEALTH

Dear Mr. Miskin:

A periodic meeting with the New York City Department of Health (NYCDOH) was held on February 27, 2001. The purpose of the meeting was to review and discuss the status of NYCDOH's Agreement State program. The NRC was represented by Kathleen Schneider from the NRC's Office of State and Tribal Programs and me. Specific topics and issues of importance discussed at the meeting included the Office's loss of staff through retirement and transfer and their corrective actions to the follow-up IMPEP recommendations.

I have completed and enclosed a general meeting summary, included any specific actions that will be taken as a result of the meeting.

If you feel that our conclusions do not accurately summarize the meeting discussions, or have any additional remarks about the meeting in general, please contact me at (610) 337-5042 or by e-mail at adw@nrc.gov to discuss your concerns.

Thank you for your cooperation.

Sincerely,

Original signed by Duncan White

Duncan White
Regional State Agreements Officer
Division of Nuclear Materials Safety

Enclosure: As stated

cc: R. Bores, RI
K. Schneider, STP
J. Spath, NYSERDA

G. Miskin
New York City Department of Health

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
NEW YORK CITY DEPARTMENT OF HEALTH

DATE OF MEETING: February 27, 2001

ATTENDEES:

<u>NRC</u>	<u>CITY</u>
Duncan White, RSAO	Gene Miskin, Program Director
Kathleen Schneider, ASPO	Tobias Lickerman, Chief
	Richard Borri, Senior Inspector

DISCUSSION:

The proposed status of each of the recommendations in Section 5.0 of the 1999 Integrated Materials Performance Evaluation Program (IMPEP) Follow-up review of the New York City Department of Health (NYCDOH) is summarized below (number corresponding to those in the 1999 report). A copy of Section 5.0 of the 1999 report is attached for reference.

1. NYCDOH has paid closer attention to the documentation of violations in inspection reports and has made this aspect of their reports more formalized. This may include obtaining the results from the Tribunal after the licensee appears there and a decision is rendered. It is recommended that these actions be verified at the next IMPEP review.
2. NYCDOH has documented its training program for license reviewers and inspectors. It is recommended that these actions be verified at the next IMPEP review.
3. NYCDOH has reviewed individual training needs against the documented training program and has made requests for needed training. It is recommended that these actions be verified at the next IMPEP review.

Since the follow up IMPEP, there have been a number of personnel and organizational changes. The radiation program is now called the Office of Radiological Health and is part of the Bureau of Regulatory and Environmental Health Services. The Program Director still reports to Assistant Commissioner Alan Goldman.

In the last year, the radiation program has lost six individuals (out of 25 staff) due to retirements and transfers. In the materials program, there has been a loss of two inspectors (Kamble and Kirshenbaum) and two license reviewers (Braggs and Harmon). The Deputy Program Director (Ken Daniels) was transferred out of the office along with his position. The Program Director has picked up the workload of the Deputy position. The Office has hired a new radioactive materials supervisor (Tobias Lickerman) to fill the vacancy left by Mr. Miskin's promotion. This leaves the materials program with four inspectors, a senior inspector, two license reviewers, a radioactive materials supervisor and the program director. Despite the loss in personnel, the Program Director noted that there is currently no backlog in licensing or inspections. This includes the renewal of the Sloan-Kettering Memorial licenses which have been in timely renewal for several years.

The Program Director discussed at length the challenges for replacing technical staff and his plans. The recent retirements in the program were primarily the result of a City wide buyout offer. A new City directive is also in place that limits the filling of one position for every two vacated. There is also a salary parity issue for the City radiation inspectors and reviewers and their State counterparts. The present gap of \$15,000 to \$20,000 between the City and State radiation staff has made it difficult for the City to attract entry-level candidates. The Program Director plans to ask his management for longevity and instant raises for the radiation staff to close the gap with the State employees.

There was a discussion of the large number of alarms from radiation monitors at waste transfer stations and landfills. NYCDOH has recently noted that a number of these alarms were caused by the desiccant packs used with the I-131 capsules by nuclear pharmacies. Since the I-131 is volatile, the desiccant packs are absorbing enough of the radionuclide that it could cause the radiation monitors to alarm. The NYCDOH sent out a notice to their licensees reminding them to monitor the desiccant packs prior to placing them in the clean trash. A copy of this notice was provided to the RSAO and passed along to the Office of Nuclear Materials Safety and Safeguards. NYCDOH has also issued a license to the Sanitation Department for the temporary storage of trucks with elevated radiation levels and provided them with training.

The materials program has been successful in obtaining new equipment for emergency response including a new vehicle, portable liquid scintillation counter and a portable multi-channel analyzer. The City staff demonstrated this new portable equipment for the NRC.

There been no legislative changes that have affected the program. All fees collected by the program continue to be deposited into the City general funds. The program has not adopted any new NRC amendments since the last IMPEP. The Program Director indicated that they are waiting for NRC to finalize the adoption of Part 35 before pursuing another rulemaking initiative. NYCDOH can use other State radiation regulations by reference. NRC staff indicated that during the next IMPEP review, there will be a greater emphasis placed on determining if a program's regulations or other legally binding requirements are compatible with NRC's regulations, largely in part due to the expiration of the grace period for the adopting regulations in the NRC's policy on adequacy and compatibility issued in 1997.

The NRC staff discussed recent management changes at the Commission and the impact of a new President and Administration. A copy of the recently approved STP procedure for obtaining grant money for the Agreement State evaluation of formerly terminated NRC/AEC sites within their jurisdiction was provided to the Program Manager.

There was one allegation referred to the NYCDOH by NRC Region I since the last IMPEP that has been subsequently closed.

The NRC staff indicated that the NRC is placing greater emphasis on the monthly reporting of incidents NRC and the need to provide complete information on the follow up and resolution. It was further noted that this was a matter of compatibility and will be examined closely at the next IMPEP. It was noted that the NYCDOH has been timely in reporting incidents to the NRC, but in some cases, the City had not provided documentation to close out the events.

The NRC staff indicated that next full IMPEP of the New York program has been tentatively scheduled for spring 2002. The NRC staff also indicated there was an initiative to restructure the review to decrease the amount of NRC resources used on the review and reduce the overall length of the review. This initiative is currently under review by NRC management and if approved, the NRC will present the plan to the four New York radiation programs that implement the Agreement for their input and comments.

NEW YORK CITY DEPARTMENT OF HEALTH
RECOMMENDATIONS FROM 1999 FOLLOW UP IMPEP REPORT

1. The review team continues to recommend that NYCH inspectors follow the guidance in the NYCH inspection procedure manual, which includes the information necessary for properly documenting violations (Recommendation 3, Section 3.2.1 of the 1998 report), or that NYCH clarify the policy in their inspection manual for supporting documentation of violations noted during an inspection. (Section 3.2)
2. The review team recommends that NYCH document its training program to include overall policy and minimum training requirements to be qualified to conduct the responsibilities of the program for both licensing and compliance staff. (Recommendation 5, Section 3.3.1 of the 1998 report, Section 3.3)
3. The review team recommends that NYCH review the staff's training against their training requirements, clearly document how the training was achieved, and acquire the necessary training, as appropriate. (Recommendation 6, Section 3.3.1 of the 1998 report, Section 3.3)