

# New York State Department of Environmental Conservation

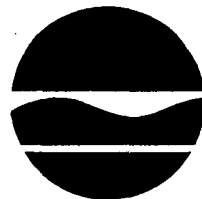
## Division of Solid and Hazardous Materials

Bureau of Hazardous Waste and Radiation Management, Radiation Section

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Denise M. Sheehan  
Commissioner

To: Schluefer, STP

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January 27, 2006

Mr. Martin J. Virgilio

Deputy Executive Director for Materials, Research, State, and Compliance Programs

Office of the Executive Director for Operations

US Nuclear Regulatory Commission

Washington, D.C. 20555-0001

Dear Mr. Virgilio:

This responds to your December 27, 2005 letter to Mr. Stephen Hammond, Director of the Division of Solid & Hazardous Materials in the Department of Environmental Conservation (DEC). In your letter, you informed us of the Management Review Board's decision that the New York State Agreement State Agencies should undergo a period of heightened oversight, due to the number of overdue regulations.

We have reviewed the list of overdue regulations transmitted with your letter. The Deliberate Misconduct Rule is addressed by existing statutory authority, and we will document that authority in a letter to the NRC. We have recently adopted the amendments to the disposal and manifest requirements, along with the 2004 Transportation Safety Amendments. Although we recognize the need to adopt the other regulations, the delay has not impaired DEC's ability to protect the environment or the public from radiation hazards.

Some of the overdue amendments are minor changes to definitions or clarifications of existing regulations. With respect to the License Termination Rule, DEC issued cleanup guidelines for soils contaminated with radioactive materials in 1993, before the License Termination Rule went into effect. DEC has implemented those guidelines at all state-regulated sites remediated for radioactive contaminants, and urged their consideration in federal cleanups. As a result, the potential radiation dose from residual radioactive material at remediated sites in New York State is well below the dose limit set in the License Termination Rule. While we have not yet adopted a compatible regulation, our guidelines have been effective in protecting the public and the environment.

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E-RIDS: EDO-01

Mr. Martin J. Virgilio

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You requested that each agency develop a Program Improvement Plan. Ours is enclosed. If there are any questions, please contact me. We look forward to working with the NRC on these rules.

Sincerely,



Barbara Youngberg  
Chief, Radiation Section

Enclosure

cc: S. Minnick, NRC Region 1  
D. White, NRC Region 1  
J. Spath, NYSERDA  
A. Salame-Alfie, NYSDOH  
C. Bradt, NYSDOL  
G. Miskin, NYCDOH  
S. Hammond  
D. O'Toole  
E. Dassatti

## New York State Department of Environmental Conservation Program Improvement Plan

RATS ID Numbers 1991-4, 1993-1, 1995-5 , 1996-3 , 1997-6 1998-5, and 2002-1				
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
Rulemaking Initiation Memorandum (RIM)	RIM written	Barbara Youngberg	March 2006	in preparation
	Internal review and approval of RIM	Barbara Youngberg	May 2006	
Scoping Meeting	Meeting held	Barbara Youngberg	June 2006	
Outreach to Affected Parties	Preliminary Draft Express Terms posted on web site; letters sent to regulated and interested parties; notice published in Environmental Notice Bulletin	Barbara Youngberg	August 2006	
NRC review	NRC sends comments to DEC	NRC OSTP	October 2006	
Comments received	Comment period ends		October 2006	

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Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
Proposed Rule Express Terms and Supporting Documents	Documents drafted: Express Terms Environmental Assessment Form Coastal Assessment Form Positive Declaration Regulatory Impact Statement Regulatory Flexibility Analysis Rural Area Flexibility Analysis Job Impact Statement Notice of Proposed Rulemaking Response to Comments	Barbara Youngberg	Second quarter 2007	
Approval to Send Proposed Rule to Governor's Office of Regulatory Reform (GORR)	Internal review and approval of draft express terms and supporting documents	Barbara Youngberg	Third quarter 2007	
Approval to Propose Rule	Review and approval of draft express terms and supporting documents by GORR and Governor's Office	GORR	First quarter 2008	

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Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
Proposed Rule Filed and Published	Proposed Rulemaking package filed at Department of State and published in Environmental Notice Bulletin and State Register	Barbara Youngberg	First quarter 2008	
Public Hearings on Proposed Rule	Hearings held, comment period closes	Barbara Youngberg	Second quarter 2008	
Final rulemaking package	Final rulemaking documents prepared: Express Terms Environmental Assessment Form Coastal Assessment Form SEQR Findings Regulatory Impact Statement Regulatory Flexibility Analysis Rural Area Flexibility Analysis Job Impact Statement Notice of Proposed Rulemaking Assessment of Public Comment Notice of Adoption	Barbara Youngberg	Third quarter 2008	

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RATS ID Numbers 1991-4, 1993-1, 1995-5 , 1996-3 , 1997-6 1998-5, and 2002-1				
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
Final Rule Package approved for submission to Environmental Board	Internal Review and approval of draft express terms and supporting documents	Barbara Youngberg	Fourth quarter 2008	
Environmental Board Review	Environmental Board meets, approves final rule	Environmental Board	First quarter 2009	
Final Rule Adopted	Final rulemaking package filed at Department of State	Barbara Youngberg	First quarter 2009	

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RATS ID #	Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
1998-6 2004-1 Manifests	Provide copy of revised 6 NYCRR 381 to NRC	Regulations sent to NRC	Barbara Youngberg	February 1, 2006	revised Part 381 was effective January 4, 2006
1998- 1 Deliberate Misconduct	Letter to NRC explaining existing DEC authority	Letter sent to NRC	Barbara Youngberg	March 1, 2006	