

March 21, 2006

Mr. Stephen Hammond, P.E., Director  
Division of Solid & Hazardous Materials  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-7255

Dear Mr. Hammond:

We have reviewed your Program Improvement Plan (Plan) submitted to this office as required by the heightened oversight process. In addition, we have taken into consideration information provided by your staff regarding the Plan, as part of the first heightened oversight call on March 10, 2006. The minutes from this call are enclosed. We believe your Plan meets the requirements of the heightened oversight process and have no comments.

We would like to acknowledge your submission of three of the overdue rules to the U.S. Nuclear Regulatory Commission (NRC) for review, prior to the first heightened oversight call. This effort by your Program shows commitment to the goals of your Plan and the professionalism of your staff.

The NRC Regional State Agreements Officers, Sheri Minnick and Duncan White of the Region I Office, will continue to schedule bi-monthly calls with your staff, and we request that you submit an updated status of the corrective actions associated with the Plan, two weeks prior to each bi-monthly call.

Although your Program has been placed on heightened oversight due to overdue adoption of NRC rules, this action does not affect our finding that your Program is adequate to protect public health and safety. We appreciate the effort and the cooperation that you and your staff have shown during this process. I thank you for your continuing support of the New York Agreement State radiation control program. I look forward to our agencies continuing to work cooperatively in the future.

Sincerely,

**/RA/**

Janet R. Schlueter, Director  
Office of State and Tribal Programs

Enclosure: As stated

cc: Barbara Youngberg  
New York State Department of  
Environmental Conservation

John P. Spath  
New York State Energy Research  
and Development Authority

S. Hammond

March 21, 2006

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**Minutes from the March 10, 2006 Heightened Oversight Call with New York State  
Department of Environmental Conservation**

March 10, 2006 10:00 a.m.

Attendees:

Barbra Youngberg New York State Department of Environmental Conservation (NYDEC)  
George Pangburn , U.S. Nuclear Regulatory Commission (NRC), Region I  
Duncan White, NRC, Region I  
Sheri Minnick, NRC, Region I  
Janet Schlueter, NRC, STP  
Dennis Rathbun, NRC, STP  
Kevin Hsueh, NRC, STP  
John Zabko, NRC, STP

Mr. George Pangburn started the discussion with a comment on NYDEC's statement that some of the overdue NRC rules were being covered by alternate means by NYDEC. He asked if the NYDEC could better explain that statement. Ms. Barbara Youngberg indicated, that as an example, the essential objectives of the NRC's License Termination Rule had been implemented in the State with regard to clean up of terminated sites. She explained that NYDEC approves the clean up of sites in the State and that their limits were even lower than required by the NRC's rule. The NYDEC wanted to assure the NRC that they had not neglected enforcing clean-up requirements; they just had not adopted the NRC's rule. NYDEC plans to adopt all of the applicable NRC rules and send them in for review.

Mr. Pangburn questioned the length of time it would take to complete the rulemaking action as stated in the Program Improvement Plan (Plan). Ms. Youngberg indicated that the Plan was developed in coordination with the NYDEC regulation coordinator and represents a schedule they know they can meet. However, she indicated that they fully plan on exceeding the goals for completion. She indicated that the Plan represents the longest time frame for rule adoption and they may be able to meet the goals ahead of schedule. She indicated that the heightened oversight process will help the movement of the regulation package through the offices that need to review it.

Ms. Janet Schlueter indicated that the NRC understands that the legislation process outside of the NYDEC's control may take a long time to complete, however, the NRC will be looking for any of the work that the Program has control over, to be completed as quickly as possible. Ms. Youngberg indicated that she would be the manager of the process and would push the rule to completion as soon as they could.

Mr. Pangburn questioned if the program was aware of why they got to the position they are in and if they have used this knowledge to plan for the future with regard to staying current with the adoption of NRC regulations. Ms. Youngberg indicated that competing priorities, loss of staff, and the reorganization of priorities in the past had caused the backlog in rule adoption. In addition, since the NYDEC rule promulgation process is long and complicated, it is not a good use of staff time to adopt one NRC rule at a time. She indicated that the NYDEC plans to package several rules together and promulgate a package every three years to meet the NRC's requirements.

Mr. Pangburn summarized the NRC heightened oversight process and discussed the various outcomes of the New York Integrated Materials Performance Evaluation Program scheduled in July 2006. NYDEC had no questions.

Mr. Kevin Hsueh thanked the NYDEC for its effort in submitting three regulation amendments (RATS ID:1998-6, 2004-1 and 1998-1) to the NRC for review. The submission was on schedule according to the Plan. NRC has determined that two of the rules submitted (1998-6 and 2004-1) are compatible. NRC is currently reviewing the third rule submitted (1998-1) and expects to be completed within the next 60 days.

The call ended at approximately 10:35 a.m.