

**New York State Department of Environmental Conservation
Division of Solid and Hazardous Materials**

Bureau of Hazardous Waste and Radiation Management, Radiological Sites Section

625 Broadway, Albany, New York 12233-7255

Phone: (518) 402-8579 • FAX: (518) 402-8646

Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

July 27, 2007

Mr. James Kottan
NRC Region I
475 Allendale Road
King of Prussia, PA 19406-1415

Dear Mr. Kottan:

**RE: New York Final IMPEP Report and
Program Improvement Plan - Update # 4**

We have reviewed the Final Report for the Integrated Materials Performance Evaluation Program Review of the New York Agreement State Program, which we received on March 7, 2007. The following are our responses to the two recommendations for our program, presented in section 5 of the report.

1. The review team recommends that DEC transmit inspection findings to their licensees within 30 days after the close of the inspection.

The Radiation Control Permit Section is now making it a priority to complete its Part 380 permit compliance inspection reports and letters within 30 days. All inspectors have been reminded of the importance of sending out inspection letters within 30 days after completion of their inspections. After receiving the results of the IMPEP review, we have met that goal for most inspections.

2. The review team recommends that the three State Agencies (NYC, DOH, and DEC) develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility.

We are continuing to update and implement our action plan for adopting NRC regulations. Enclosed is the fourth update of our Program Improvement Plan, as required by the heightened oversight process. The following are the changes made since our last update (submitted on October 20, 2006):

- Adoption of the license termination rule (RATS ID 1977-6) is now our highest priority. As a result, completion of that rulemaking (i.e., adoption of 6 NYCRR Part 384) is expected in the fall of 2008, instead of the first quarter of 2009, as previously planned. The adoption of the other amendments has been delayed, from the first quarter to the last quarter of 2009.

- We have revised the draft express terms for both the Part 380 amendments and the new Part 384 (the license termination rule). Legal review of the draft express terms for Part 384 has begun.
- In response to discussion with NRC staff during the IMPEP review, the NRC review of the draft express terms is now scheduled to take place after the proposed rulemaking package has been approved by the Governor's Office of Regulatory Reform (GORR). The previous plan called for NRC to review the draft rule before GORR.

As we explained in our January 31, 2006 letter to the NRC, we recognize the need to adopt these regulations, but our delay in doing so has not impaired DEC's ability to protect the environment or the public from radiation hazards.

If there are any questions on our updated plan, please contact me.

Sincerely,



Barbara Youngberg
Chief, Radiological Sites Section

Enclosure

cc: R. Phaneuf, Acting Director, BHWRM

New York State Department of Environmental Conservation Program Improvement Plan
July 27, 2007

RATS ID Number 1997-6					
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date	
1. Rulemaking Initiation Memorandum (RIM)	1.1 RIM written	Barbara Youngberg	March 2006	Completed June 13, 2006	
	1.2 Internal review and approval of RIM	Barbara Youngberg	June 2006	Completed June 23, 2006	
2. Scoping Meeting	2. Meeting held	Barbara Youngberg	July 2006	Completed July 13, 2006	
3. Outreach to Affected Parties	3. Comments invited from affected and interested parties	Barbara Youngberg	September 2007		
4. Comments received from affected parties	4. Comment period ends		October 2007		

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RATS ID Number 1997-6					
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date	
5. Proposed Rule Express Terms and Supporting Documents	5. Documents drafted: 5.1 Express Terms 5.2 Environmental Assessment Form 5.3 Coastal Assessment Form 5.4 Positive Declaration 5.4 Regulatory Impact Statement 5.5 Regulatory Flexibility Analysis 5.6 Rural Area Flexibility Analysis 5.7 Job Impact Statement 5.8 Notice of Proposed Rulemaking 5.9 Response to Comments	Barbara Youngberg	October 2007	5.1 Being drafted	
6. Internal review and approval of draft express terms and supporting documents	Review and Approval by 6.1. Counsel's Office 6.2 Division 6.3 Other Divisions 6.4 Division 6.5 Executive Office - Approval to Send Proposed Rule to Governor's Office of Regulatory Reform (GORR) and NRC	Barbara Youngberg	November 2007	Review by Counsel's Office began in July 2007	
7. Approval to Publish Proposed Rule	8. Review and approval of draft express terms and supporting documents by GORR and Governor's Office	GORR	December 2007		

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RATS ID Number 1997-6					
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date	
8. NRC review	7.1 DEC sends express terms to NRC for review 7.2 NRC sends comments to DEC	Barbara Youngberg NRC	7.1 December 2007 7.2 February 2008		
9. Proposed Rule Filed and Published	9. Proposed Rulemaking package filed at Department of State and published in Environmental Notice Bulletin and State Register	Barbara Youngberg	March 2008		
10. Public Hearings on Proposed Rule	10. Hearings held, comment period closes	Barbara Youngberg	April - May 2008		
11. Final rulemaking package	11. Final rulemaking documents prepared: 11.1 Express Terms 11.2 Environmental Assessment Form 11.3 Coastal Assessment Form 11.4 SEQR Findings 11.5 Regulatory Impact Statement 11.6 Regulatory Flexibility Analysis 11.7 Rural Area Flexibility Analysis 11.8 Job Impact Statement 11.9 Notice of Proposed Rulemaking 11.10 Assessment of Public Comment 11.11 Notice of Adoption	Barbara Youngberg	May 2008		

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RATS ID Number 1997-6					
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date	
12. Final Rule Package approved for submission to Environmental Board	12. Internal Review and approval of draft express terms and supporting documents	Barbara Youngberg	June 2008		
13. Environmental Board Review	13. Environmental Board meets, approves final rule	Environmental Board	September 2008		
14. Final Rule Adopted	14. Final rulemaking package filed at Department of State	Barbara Youngberg	October 2008		
15. NRC Review	15. Final Rule sent to NRC	Barbara Youngberg	Immediately after filing final package at Department of State		

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RATS ID Numbers 1991-4, 1993-1, 1995-5, 1996-3, 1998-1, 1998-5, and 2002-1					
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date	
1. Rulemaking Initiation Memorandum (RIM)	1.1 RIM written	Barbara Youngberg	March 2006	Completed June 13, 2006	
	1.2 Internal review and approval of RIM	Barbara Youngberg	June 2006	Completed June 23, 2006	
2. Scoping Meeting	2. Meeting held	Barbara Youngberg	July 2006	Completed July 13, 2006	
3. Outreach to Affected Parties	3. Comments invited from affected and interested parties	Sandra Hinkel	November 2007	outreach letter drafted	
4. Comments received from affected parties	4 Comment period ends		January 2008		

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RATS ID Numbers 1991-4, 1993-1, 1995-5, 1996-3, 1998-1, 1998-5, and 2002-1				
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
5. Proposed Rule Express Terms and Supporting Documents	5. Documents drafted: 5.1 Express Terms 5.2 Environmental Assessment Form 5.3 Coastal Assessment Form 5.4 Positive Declaration 5.4 Regulatory Impact Statement 5.5 Regulatory Flexibility Analysis 5.6 Rural Area Flexibility Analysis 5.7 Job Impact Statement 5.8 Notice of Proposed Rulemaking 5.9 Response to Comments	Sandra Hinkel	March 2008	5.1 Being drafted 5.4 Regulatory Impact Statement is being drafted.
6. Internal review and approval of draft express terms and supporting documents	Review and Approval by 6.1. Counsel's Office 6.2 Division 6.3 Other Divisions 6.4 Division 6.5 Executive Office - Approval to Send Proposed Rule to Governor's Office of Regulatory Reform (GORR) and NRC	Sandra Hinkel	May 2008	
7. Approval to Publish Proposed Rule	Review and approval of draft express terms and supporting documents by GORR and Governor's Office	GORR	July 2008	

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RATS ID Numbers 1991-4, 1993-1, 1995-5, 1996-3, 1998-1, 1998-5, and 2002-1					
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date	
8. NRC review	8.1 DEC sends express terms to NRC for review	Sandra Hinkel	8.1 August 2008		
	8.2 NRC sends comments to DEC	NRC	8.2 October 2008		
9. Proposed Rule Filed and Published	9. Proposed Rulemaking package filed at Department of State and published in Environmental Notice Bulletin and State Register	Sandra Hinkel	January 2009		
10. Public Hearings on Proposed Rule	10. Hearings held, comment period closes	Sandra Hinkel	March 2009		
11. Final rulemaking package	11. Final rulemaking documents prepared: 11.1 Express Terms 11.2 Environmental Assessment Form 11.3 Coastal Assessment Form 11.4 SEQR Findings 11.5 Regulatory Impact Statement 11.6 Regulatory Flexibility Analysis 11.7 Rural Area Flexibility Analysis 11.8 Job Impact Statement 11.9 Notice of Proposed Rulemaking 11.10 Assessment of Public Comment 11.11 Notice of Adoption	Sandra Hinkel	June 2009		

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RATS ID Numbers 1991-4, 1993-1, 1995-5, 1996-3, 1998-1, 1998-5, and 2002-1					
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date	
12. Final Rule Package approved for submission to Environmental Board	12. Internal Review and approval of draft express terms and supporting documents	Sandra Hinkel	August 2009		
13. Environmental Board Review	13. Environmental Board meets, approves final rule	Environmental Board	September 2009		
14. Final Rule Adopted	14. Final rulemaking package filed at Department of State	Sandra Hinkel	October 2009		
15. NRC Review	15. Final Rule sent to NRC	Sandra Hinkel	Immediately after filing final package at Department of State		