

New York State Department of Environmental Conservation
Division of Environmental Remediation
Remedial Bureau A
Radiation Control Permit Section, 11th Floor
625 Broadway, Albany, New York 12233-7255
Phone: (518) 402-9625 • **Fax:** (518) 402-9627
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Joe Martens
Commissioner

December 28, 2011

Mr. Brian McDermott, Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials and Environmental Management Programs
US Nuclear Regulatory Commission
11555 Rockville Pike
MS T8-E24
Rockville, MD 20852

Dear Mr. McDermott:

This is the New York State Department of Environmental Conservation's response to your November 29, 2011 letter transmitting the final results of the Integrated Materials Performance Evaluation Program (IMPEP) report on the New York Agreement State Program. Your letter informed us of the NRC Management Review Board's decision that the period of Heightened Oversight for the New York Agreement State program should continue.

With respect to the Department's portion of New York's Agreement State Program, we note that the IMPEP report did not contain any recommendations for improvement regarding the five common and two non-common performance indicators applicable to our program, except for the single indicator of compatibility. Along with the other New York radiation programs, the Department was found to be overdue in adopting a number of NRC regulations. We recognize the need to adopt these regulations, but our delay in doing so has not impaired the Department's ability to protect the environment or the public from radiation hazards.

As requested in your letter, enclosed is the Department's revised program improvement plan for adopting the needed regulations. We look forward to discussing these plans at the next Heightened Oversight conference call, scheduled for January 26, 2012. If you have any questions, please call me at 518-402-9625.

Sincerely,

Sandra Hinkel, Chief
Radiation Control Permit Section

Enclosure

ecc: Monica Orendi, Regional State Agreements Officer, USNRC
Robert Schick, Acting Director, Division of Environmental Remediation, NYSDEC
Jim Harrington, Director, Remedial Bureau A, NYSDEC
Timothy Rice, Radiological Sites Section Chief, Remedial Bureau A, NYSDEC

**New York State Department of Environmental Conservation Program Improvement Plan
December 28, 2011**

RATS ID Number 1994-3, 1997-6 - License Termination Rule - Part 384				
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	January 2008	Completed February 11, 2008
4. Comments received from affected parties	4 Comment period ends	Barbara Youngberg	March 2008	Completed April 21, 2008
5. Draft Express Terms Prepared	5.1 Comments evaluated, responses written (Comment Response Summary finalized, mailed to commentors, posted on website) 5.2 Draft Express Terms completed	Jessie Lynch / Tim Rice	January 2009	5.1 Comments have been evaluated. Comment Response Summary has been prepared. 5.2 Final Draft Express Terms completed; legal review completed.

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Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
6. Supporting Documents Prepared	6.1 Environmental Assessment Form 6.2 Coastal Assessment Form 6.3 Regulatory Impact Statement 6.4 Regulatory Flexibility Analysis 6.5 Rural Area Flexibility Analysis 6.6 Job Impact Statement 6.7 Notice of Proposed Rulemaking	Jessie Lynch	6.2 April 2008 6.2 April 2008 6.3 February 2009 6.4 February 2009 6.5 February 2009 6.6 February 2009 6.7 May 2011	6.1 Completed 6.2 Completed 6.3 Completed 6.4 Completed 6.5 Completed 6.6 Completed 6.7
7. Internal review and approval of draft express terms and supporting documents	Review and Approval by 7.1. Counsel's Office 7.2 Division 7.3 Other Divisions 7.4 Division 7.5 Executive Office - Approval to Send Proposed Rule to Governor's Office	Jessie Lynch / Tim Rice	January 2012	7.1 Counsel's Office review of draft express terms completed 7.2 Division review complete 7.3
8. Approval to Publish Proposed Rule	8. Review and approval of draft express terms and supporting documents by Governor's Office	GO	February 2012	
9. Proposed Rule Filed and Published	9. Proposed Rulemaking package filed at Department of State and published in Environmental Notice Bulletin and State Register	Tim Rice / Jessie Lynch	March 2012	

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Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
10. NRC review	10.1 DEC sends proposed rule to NRC for review	Tim Rice / Jessie Lynch	10.1 March 2012	
	10.2 NRC sends comments to DEC	NRC	10.2 May 2012	
11. Public Hearings on Proposed Rule	11. Hearings held, comment period closes	Tim Rice / Jessie Lynch	June 2012	
12. Final rulemaking package	12. Final rulemaking documents prepared: 12.1 Express Terms 12.2 Environmental Assessment Form 12.3 Coastal Assessment Form 12.4 SEQR Findings 12.5 Regulatory Impact Statement 12.6 Regulatory Flexibility Analysis 12.7 Rural Area Flexibility Analysis 12.8 Job Impact Statement 12.9 Notice of Proposed Rulemaking 12.10 Assessment of Public Comment 12.11 Notice of Adoption	Tim Rice / Jessie Lynch	June 2012	

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RATS ID Number 1994-3, 1997-6 - License Termination Rule - Part 384				
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
13. Final Rule Package approved for submission to Environmental Board	13. Internal Review and approval of draft express terms and supporting documents	Tim Rice / Jessie Lynch	Summer 2012	
14 . Environmental Board Review	14. Environmental Board meets, approves final rule	Environmental Board	Fall 2012	
15. Final Rule Adopted	15. Final rulemaking package filed at Department of State	Tim Rice / Jessie Lynch	Fall 2012 (no less than 10 days after Environmental Board meets)	
16. NRC Review	16. Final Rule sent to NRC	Tim Rice / Jessie Lynch	Late 2012 - Immediately after filing final package at Department of State	

**New York State Department of Environmental Conservation Program Improvement Plan
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RATS ID Numbers 1991-4, 1995-5, 1998-5, 2002-1, 2007-3, and 2008-1 - Part 380 Amendments				
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. Preliminary Draft Express Terms (PDET)	3.1 PDET prepared 3.2 Legal review and revision 3.3 Revision of PDET and legal review 3.4 Approval to distribute	Sandra Hinkel	3.1 May 2008 3.2 July 2008 3.3 October 2008 3.4 November 2009	3.1 First draft PDET completed May 12, 2008 3.2 Legal review completed June 2, 2008 3.3 Revision of PDET completed, legal review completed 3.4 Approval to distribute received October 2009

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RATS ID Numbers 1991-4, 1995-5, 1998-5, 2002-1, 2007-3, and 2008-1 - Part 380 Amendments				
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
4. Outreach to Affected Parties	4. Comments invited from affected and interested parties (mailings, website)	Sandra Hinkel	November 2009	Outreach letter mailed out to regulated and interested parties October 30, 2009.
5. Comments received from affected parties	5 Comment period ends	Sandra Hinkel	January 2010	Comments received and reviewed.
6. Draft Express Terms Prepared	6.1 Comments evaluated 6.2 Draft Express Terms completed	Sandra Hinkel	August 2010 January 2012	No significant comments received. Radiation Program moved to DER in 2011, ETs under review by DER program attorney.
7. Supporting Documents Prepared	7.1 Environmental Assessment Form 7.2 Coastal Assessment Form 7.3 Regulatory Impact Statement 7.4 Regulatory Flexibility Analysis 7.5 Rural Area Flexibility Analysis 7.6 Job Impact Statement 7.7 Notice of Proposed Rulemaking	Sandra Hinkel	February 2012	7.5 Outlined; preparation of supporting documents now underway

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RATS ID Numbers 1991-4, 1995-5, 1998-5, 2002-1, 2007-3, and 2008-1 - Part 380 Amendments				
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
8. Internal review and approval of draft express terms and supporting documents	Review and Approval by 8.1. Counsel's Office 8.2 Division 8.3 Other Divisions 8.4 Division 8.5 Executive Office - Approval to Send Proposed Rule to Governor's Office	Sandra Hinkel	April 2012	
9. Approval to Publish Proposed Rule	9. Review and approval of draft express terms and supporting documents by Governor's Office	GO	June 2012	
10. Proposed Rule Filed and Published	10. Proposed Rulemaking package filed at Department of State and published in Environmental Notice Bulletin and State Register	Sandra Hinkel	August 2012	
11. NRC review	11.1 DEC sends express terms to NRC for review	Sandra Hinkel	10.1 September 2012	
	11.2 NRC sends comments to DEC	NRC	10.2 December 2012	
12. Public Hearings on Proposed Rule	12. Hearings held, comment period closes	Sandra Hinkel	October 2012	

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Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
13. Final rulemaking package	13. Final rulemaking documents prepared: 13.1 Express Terms 13.2 Environmental Assessment Form 13.3 Coastal Assessment Form 13.4 SEQR Findings 13.5 Regulatory Impact Statement 13.6 Regulatory Flexibility Analysis 13.7 Rural Area Flexibility Analysis 13.8 Job Impact Statement 13.9 Notice of Proposed Rulemaking 13.10 Assessment of Public Comment 13.11 Notice of Adoption	Sandra Hinkel	January 2013	
14. Final Rule Package approved for submission to Environmental Board	14. Internal Review and approval of draft express terms and supporting documents	Sandra Hinkel	February 2013	
15. Environmental Board Review	15. Environmental Board meets, approves final rule	Environmental Board	March 2013	
16. Final Rule Adopted	16. Final rulemaking package filed at Department of State	Sandra Hinkel	May 2013	

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RATS ID Numbers 1991-4, 1995-5, 1998-5, 2002-1, 2007-3, and 2008-1 - Part 380 Amendments				
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
17. NRC Review	17. Final Rule sent to NRC	Sandra Hinkel	June 2013 - Immediately after filing final package at Department of State	