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April 11, 2001

Clayton Bradt, CHP
Principal Radiophysicist
New York State Department of Labor
Division of Safety and Health
Radiological Health Unit
NYS Office Campus, Bldg. 12, Room 169
Albany, NY 12240

SUBJECT: PERIODIC MEETING SUMMARY FOR NEW YORK STATE DEPARTMENT OF
LABOR

Dear Mr. Bradt:

A periodic meeting with the New York State Department of Labor (NYDOL) was held on February 28, 2001. The purpose of the meeting was to review and discuss the status of NYDOL'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 compatibility and event reporting.

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,

/RA/

Duncan White
Regional State Agreements Officer
Division of Nuclear Materials Safety

Enclosure: As stated

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

C. Bradt
New York State Department of Labor

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR
NEW YORK STATE DEPARTMENT OF LABOR (NYDOL)

DATE OF MEETING: February 28, 2001

ATTENDEES:	<u>NRC</u>	<u>NYDOL</u>
	Duncan White, RSAO	Clayton Bradt, Program Director
	Kathleen Schneider, ASPO	Anthony Germano, Assistant Director
		Richard Cucolo, Director

DISCUSSION:

At the previous periodic meeting in November 1999, the proposed status of each of the recommendations in Section 5.0 of the 1998 revised final Integrated Materials Performance Evaluation Program (IMPEP) was discussed. As a result of the discussions at that meeting, no additional information was needed and the actions taken by NYDOL will be reviewed at the next full IMPEP review.

A significant portion of the meeting involved a discussion of compatibility and NYDOL's position on the matter. NYDOL indicated that compatibility should be a two-way process but the current relationship between NRC and the States inhibits this process. Under the Agreement between New York and NRC, NYDOL sees themselves as a peer to the NRC but indicated that the agency is not treated in that manner. The requirement for States to report events to the NRC as a matter of compatibility was used as an example. NYDOL pointed out that the NRC treats the States like licensees in terms of the time frames required to report the events. Concerns over the release of event information to the public within a short period of time (24 hours) were also expressed, particularly combined with the requirement to report the event in a time period where the investigation is often incomplete and the State must then divert resources to field inquiries from the public and the NRC. NYDOL indicated the Occupational Safety and Health Agency (OSHA) also has a requirement for reporting events to the federal level, but OSHA worked with the States and used their input to develop the system that is in use today that balances the need for information and reasonable reporting requirements. NYDOL indicated that they fully support the reporting of radiological events for the purposes of sharing with other agencies as a matter of health and safety. They have chosen not to report events to the NRC in accordance with the requirements in STP Procedure SA-300 "Reporting of Material Events" since the NRC has taken a draconian approach to the States regarding this matter.

NRC staff indicated that the Commission made the reporting of events a matter of compatibility. The NRC staff discussed the past consistencies of requesting and incorporating feedback from the States. It was pointed out that State-NRC issues are now sent to Working Groups consisting of both State and NRC personnel for evaluation and recommendations. There is currently an event reporting working group looking into a number of issues raised by NYDOL whose co-chair is Robert Dansereau from NY State Department of Health. The NRC staff indicated that at the next IMPEP review, the NRC will be emphasizing the monthly reporting of incidents and the need to provide complete information on the follow up and resolution.

There have been no legislative changes that have affected the program. The program has not adopted any new NRC amendments since the last IMPEP. 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.

NYDOL indicated that there is legislation pending to combine the radiation programs in the State Department of Labor and Health. There have been previous initiatives to combine the two programs in previous years.

The Director and Assistant Director indicated that the Division is applying additional resources and management attention into the Radiological Health Unit (RHU). This includes the promotion of Mr. Bradt into the Principal Radiophysicist position; the hiring of an Associate Radiophysicist (Dan Samson) to fill Mr. Bradt's vacated position and the posting of another Associate Radiophysicist position. NYDOL has also invested in new equipment and is in the process of upgrading their information technology capabilities which would allow for the use of electronic transfers, filings and use of handheld technology for use during inspections.

Current staffing of the program includes four technical staff and two clerical staff in the Manhattan office, and three technical staff, two clerical and program manager in Albany. The RHU plans to maintain the two offices. The program continues to be funded by a combination of fees and direct appropriation. The radiation program has no dedicated funds.

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. The NYDOL was informed that Pat Larkins will become the new Agreement State Project Officer (ASPO) in March 2001 replacing Ms. Schneider. The current status of the National Materials Program Working Group was briefly discussed.

During discussions regarding the incorporation of Indian tribes into the new office name for the Office of State and Tribal Programs (OSTP), NYDOL requested a list of Indian tribes within the State of New York. Subsequent to the meeting, OSTP identified an alphabetical list of Indian tribes at the Bureau of Indian Affairs web site: <http://www.doi.gov/bia/tribes/entry.html>. There appears to be seven Indian tribes from New York on the list.

There were two allegations referrals to the NYDOL by NRC Region I since the last IMPEP that has been subsequently closed.

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. NYDOL favored such an approach and offered the use of NYDOL's offices in Albany as a base of operations during the Albany portion of the IMPEP review.