

EDO Principal Correspondence Control

FROM: DUE: / / EDO CONTROL: G20060194
DOC DT: 02/03/06
FINAL REPLY:

Jeanine Prud'homme
The City of New York
Department of Health and Mental Hygiene

TO:

Virgilio, DEDMRS

FOR SIGNATURE OF : ** GRN ** CRC NO:

DESC:

New York State Agreement Program - Heightened
Oversight

ROUTING:

Reyes
Virgilio
Kane
Silber
Dean
Cyr/Burns
Collins, RI

DATE: 02/27/06

ASSIGNED TO: CONTACT:
STP Schlueter

SPECIAL INSTRUCTIONS OR REMARKS:

For Appropriate Action.

Template: EDO-001

E-RIDS: EDO-01



THE CITY OF NEW YORK

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Michael R. Bloomberg
Mayor

Thomas R. Frieden, M.D., M.P.H.
Commissioner

nyc.gov/health

February 3, 2005

Martin J. Virgilio
Deputy Executive Director for Materials, Research,
State and Compliance Programs
Office of the Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Virgilio:

This is in response to your December 27, 2005 letter concerning New York State Agreement Program heightened oversight due to the overdue adoption of Nuclear Regulatory Commission (NRC) regulations. We have reviewed the list of overdue regulations transmitted with your letter and have attached the Department of Health and Mental Hygiene's (DOHMH) plan to address these regulations as requested.

We anticipate the full adoption of both RATS ID # 1995-2 (Frequency of Medical Examinations for Use of Respiratory Protection Equipment) and RATS ID # 2002-1 (Revision of Skin Dose Limit) by the fall of 2006. The adoption of RATS ID # 1999-3 (Respiratory Protection and Controls to Restrict Internal Exposure) is expected to be completed by April 2007. We would like to note that at this time the DOHMH is not aware of any current licensees that have or require a respiratory protection program.

One section of RATS ID # 2002-2 (Medical Use of Byproduct Material) has been adopted, other sections are not applicable to our program, and the adoption of the remaining and applicable sections in 10 CFR 35 will be addressed jointly with the New York State Health Department in order to avoid having proposed amendments to our Health Code be construed as less restrictive than the State's Part 16 regulations dealing with medical use. Please note that RATS ID #2005-1 (Security Requirements for Portable Gauges Containing Byproduct Material) is not under the purview of the DOHMH, but falls under the New York State Department of Labor.

We will incorporate into our plan for adoption RATS ID # 2003-1, RATS ID #2004-1 and RATS ID #2005-2 in time frames that that will allow for the drafting, General Counsel review, State program review, STP review and Board of Health approvals in order to comply with the required NRC timelines.

EDO --G20060194

Martin J. Virgillio

- 2 -

February 3, 2006

We plan on sending, under separate cover, the regulatory changes that were adopted during the March 2005 Board of Health meeting for final review and comment by NRC. We shall use the SA-201 format for this submittal and will have it to NRC for review by April 28, 2006.

Should you have any questions, please contact Mr. Gene Miskin, Director of the Office of Radiological Health at (212) 676-1556 or myself at (212) 676-1504.

Sincerely,

A handwritten signature in cursive script that reads "Jeanine Prud'homme".

Jeanine Prud'homme
Assistant Commissioner
Bureau of Environmental Sciences and
Engineering

NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE

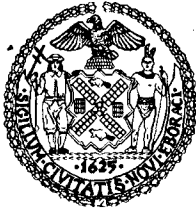
PROGRAM IMPROVEMENT PLAN

Recommendation from NRC	Tasks	Milestones	Assignments	Anticipated Completion Date	Status/Completion Date
RATS ID # 1995-2 "Frequency of Medical Exams for Use of Respiratory Protection Equipment"	Draft and submit to General Counsel	Prepare draft language for regulation and submit to GC	Lickerman	February 28, 2006	In preparation
RATS ID # 2002-1 "Revision of Skin Dose Limit"					
	Send to State Programs for comment	Review by State Health, Labor, DEC (30-day turnaround)	State Health, State Labor, State DEC	April 1, 2006	
	Submit to STP for review Obtain STP approval	STP review (60 day turnaround)	STP	May 1, 2006	
	Review comments from state and STP	Incorporate all comments	Lickerman	May, 2006	
	Prepare proposed rule for Board	Prepare and submit Certificate of Necessity (C of N) and rule language done	Lickerman	June 2006 Board	
	Rule published for public comment	Reconcile comments	Lickerman	August, 2006	
	Prepare final rule language	Present to Board for Approval	Lickerman	September 2006 Board	
	Publish final rule in City Record			October, 2006	Rule becomes final 30 days after publication
RATS ID # 1999-3 "Respiratory Protection and Controls to Restrict Internal Exposure"	Draft and submit to General Counsel	Prepare draft language for regulation with GC	Lickerman	May, 2006	In preparation

NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE

PROGRAM IMPROVEMENT PLAN

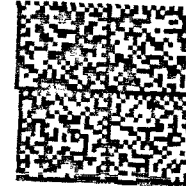
	Send to State Programs for comment	Review by State Health, Labor, DEC	State Health, State Labor, State DEC	June, 2006	
	Submit to STP for review	STP review (60 days)	STP	August, 2006	
	Review comments from state and STP	Incorporate all comments,	Lickerman	September, 2006	
	Prepare proposed rule for Board	C of N prep and rule language done	Lickerman	December 2006 Board	
	Rule published for public comment	Reconcile comments	Lickerman	February, 2007	
	Prepare final rule language	Present to Board for Approval	Lickerman	March 2007 Board	
	Publish final rule in City Record			April, 2007	Rule becomes final 30 days after publication
RATS # 2002-2 "Medical Use of Byproduct Material"	Amend Article 175 definitions of Occupational Dose and Public Dose	Approved by the Board of Health – final rule published in City Record		April 2005	Completed
	Sections pertaining to 10 CFR 32 re: manufacture and distribution of radioactive material	Sections are not applicable - not within the jurisdiction of the Department of Health and Mental Hygiene	n/a	n/a	n/a
	Sections pertaining to 10 CFR 35	Draft language in collaboration with State Health Department		TBD pending State Health adoption	Note: DOHMH Health Code Article 175 may not be less restrictive than State Health Department
RATS ID # 2005-1 "Security Requirements for Portable Gauges Containing Byproduct Material"	n/a	Not within the jurisdiction of the New York City Department of Health and Mental Hygiene, but falls under the New York State Department of Labor	n/a	n/a	n/a



**THE CITY OF NEW YORK
DEPARTMENT OF HEALTH**

2 Lafayette Street
New York, NY 10007

BOX 60



NEOPOST

\$0.39

FEB 07 2006

US POSTAGE

FIRST CLASS

MAILED FROM 10013

048J0085003110

Mr. Martin J. Virgilio
Deputy Executive Director for Materials,
Research,
State and Compliance Programs
Office of the Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

20555+0001

