

CONFERENCE CALL SUMMARY WITH NEW YORK
STATE DEPARTMENT OF HEALTH (NYSH)

DATE OF CALL: May 23, 2006

ATTENDEES:

Duncan White, Region I
Janet Schlueter, STP
Kevin Hsueh, STP
Adele Salame-Alfie, NYSH, Director
Steven Gavitt, NYSH, Deputy Director
Bob Dansereau, NYSH, Radioactive Materials Supervisor
Clayton Bradt, NY Department of Labor, Principal Radiophysicist

BACKGROUND:

On November 2, 2005, the Management Review Board (MRB) met to consider the results of the April 2005 Periodic Management Meetings with the four New York agencies that implement the New York Agreement State program. The MRB requested that bimonthly conference calls be conducted between the appropriate New York and NRC staffs to discuss the each agency's Program Improvement Plans (PIP) regarding their performance with compatibility requirements. This is the first conference call with NYSH since the November 2005 MRB Meeting.

NYSH provided a Program Improvement Plan (PIP) in their letter dated February 13, 2006 to the NRC (ML060540119). Appendix A to the letter summarized the specific status of each of the overdue regulations and Appendix B to the letter outlined specific tasks and milestones. The NRC approved the PIP in its March 24, 2006 letter (ML060830459). A status update to the PIP dated May 19, 2006 (attached) was provided by NYSH that summarized the progress achieved since February 2006.

DISCUSSION OF PROGRAM IMPROVEMENT PLAN STATUS

Mr. Gavitt indicated that the State is on schedule with the adoption of regulations as outlined in the PIP. There are three overdue regulations (RATS ID Nos. 1995-2, 1997-7 and 1999-3) which NYSH currently does not have any licensees to which they apply. Mr. Hsueh indicated that the program could address these amendments by submitting this information electronically to STP and indicate that NYSH would adopt legally binding requirements in the future if such requirements were required for a new licensee.

Regarding RATS ID No. 1997-6, Mr. Gavitt also indicated that NYSH is working with the Department of Environmental Conservation (DEC) to have compatible language with DEC regulations. This is necessary since DEC has the statutory authority under NY law to regulate radioactive material released into the environment.

MERGER OF LABOR INTO NYSH

Mr. Gavitt and Mr. Bradt discussed the impact on regulations resulting from the consolidated of Department of Labor's Radiological Health Unit (RHU) into the NYSH's Bureau of Environmental Radiation Protection by July 1, 2006. Labor regulations will remain in effect after July 1, 2006 and NYSH will have authority to enforce them. The two sets of regulations will be consolidated over the next few years. NRC requested that for the next conference call, NYSH review Labor's PIP and incorporate the relevant sections into the NYSH PIP.

IMPEP REVIEW

The next IMPEP review for New York is scheduled for July 25 - August 4, 2006. As a result of the consolidation of RHU into NYSH, Ms. Salame-Alfie requested in a May 2, 2006 letter to Ms. Schlueter that the IMPEP be postponed. During the call, Ms. Salame-Alfie suggested an October or November 2006 date for the IMPEP review. Ms. Schlueter indicated that STP will review the IMPEP schedule and contact NYSH regarding the feasibility of the new date. Subsequent to the conference call, in a letter dated May 23, 2006 from Ms. Schlueter to NYSH, the NRC agreed to the postponement and indicated that the IMPEP review would take place in the October/November 2006.

NEXT CALL

The next call will be the week of July 24, 2006.

ATTACHMENT:

NYSH UPDATE ON PROGRAM IMPROVEMENT PLAN FOR COMPATIBILITY

MAY 19, 2006

New York State Department of Health
Bureau of Environmental Radiation Protection
May 19, 2006

Program Improvement Plan for Compatibility

UPDATE

As indicated in the Program Improvement Plan (PIP), concept approval to amend Part 16 has been completed and staff continue to work on drafting proposed regulations as identified on the State Regulation Status Data Sheet (SRS). Currently the Bureau anticipates completing draft regulations for internal review by mid July. Distribution of the draft regulations to NRC, the Radiological Health Advisory Committee and regulated/interested parties should be completed in August 2006 as indicated in the PIP.

The following address specific compatibility items keyed to Attachment A of our February 13, 2006 correspondence to Mr. Virgilio.

1. We have not identified any NYS DOH licensee for which respiratory protection is required. However, if the proposed use of materials in any new license application, amendment or renewal indicates the need for respiratory protection, the requirements will be imposed by legally binding method, i.e., license conditions.
2. Amendments to Part 16 have been drafted that address RATS ID 1995-5.
3. We are currently evaluating how best to implement regulations that address radiological criteria for license termination that are within our existing authority. As previously mentioned, DOH does not have authority to regulate radioactive material that has been released into the environment. The DEC has this authority. Staff are working with DEC staff to address this item. However as previously indicated, 10 NYCRR 16.10(b) requires: *Each person who possesses any radioactive material shall, no less than 30 days prior to decontrolling a controlled area or vacating, or relinquishing possession or control of premises wherein radioactive material is or has been stored or used shall have the premises surveyed and shall notify the department in writing of his intent to decontrol a controlled area or to vacate and the results of the survey. When deemed necessary by the department, such person shall decontaminate the premises to such radiation levels as the department may specify (bolding added). Such person shall provide the health officer having jurisdiction, the operator of the installation housed on the premises and the landlord or subsequent tenant with a copy of a report of the results of the survey made pursuant to this subdivision.* Should a license termination request require an evaluation of any residual contamination DOH will coordinate with DEC if necessary, and specify an unrestricted release criteria not to exceed 25 millirem. Note: DOH and DEC have experience using existing methods/procedures such as MARSSIM and RESRAD to evaluate FUSRAP and DOE sites, that are consistent with NRC's license termination rule.
4. Draft text has been prepared to address RATS 1997-7. However in the meantime, any person who submits an application, amendment or renewal request for C-14 urea will be granted an exemption pursuant to 10 NYCRR 16.3.
5. See No. 1.
6. A review of the amendment has been completed. Draft text has been developed.
7. A review of this amendment has been performed.