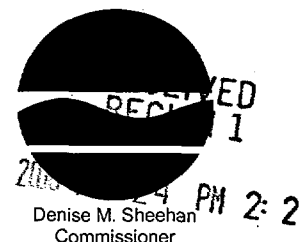


New York State Department of Environmental Conservation
Division of Solid and Hazardous Materials
Bureau of Hazardous Waste and Radiation Management, Radiation Section
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August 21, 2006

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

Dear Mr. White:

RE: Program Improvement Plan - Update # 2

Enclosed is the second update of our Program Improvement Plan, submitted as required by the heightened oversight process. The following are our accomplishments since our update of July 19, 2006:

- We have completed Milestone 1.2. The Rulemaking Initiation Memorandum was signed by Commissioner Sheehan on June 23, 2006.
- We have completed Milestone 2. The scoping meeting was held on July 13, 2006. Participants included the Governor's Office of Regulatory Reform (GORR), the Department's Division of Environmental Permits (DEP), our Division's regulatory coordinator, and myself. The purpose of the meeting was to inform GORR of our schedule, the general scope of the rule, and our plans for outreach to affected parties. We also discussed with DEP the steps required under our State Environmental Quality Review Act.
- We are making progress on Milestone 5.1, Express Terms. Our rulemaking will consist of amendments to Part 380 and adoption of a new rule, Part 384. The latter will be compatible with the License Termination Rule. We have produced preliminary drafts of the revised Part 380 and the new Part 384. These are undergoing further review and revision by radiation program staff.
- We have begun drafting Milestone 5.4, the Regulatory Impact Statement. This document provides the foundation for the other impact assessment documents (Milestone 5.5, the Regulatory Flexibility Analysis, Milestone 5.6, the Rural Area Flexibility Analysis, and Milestone 5.7, the Job Impact Statement).

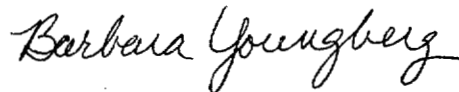
- We have changed the expected completion date for Milestone 3, Outreach to Affected Parties, from August to September 2006. We are also reconsidering the form that the outreach will take. There are many acceptable avenues for collecting input from affected parties, and we are evaluating which is most appropriate and efficient for Part 380 and Part 384. Therefore, some of the details presented previously have been deleted.
- We have expanded Milestone 4, NRC Review, to present both the date we will send the draft rule to NRC and the date when NRC will send us their comments. We intend to send the preliminary draft rule to the NRC in October.

The rest of the plan remains the same, and our completion date has not changed.

As we explained in our January 31, 2006 letter, 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, Radiation Section

Enclosure

cc: S. Hammond
D. O'Toole
E. Dassatti

**New York State Department of Environmental Conservation Program Improvement Plan
August 18, 2006**

RATS ID Numbers 1991-4, 1993-1, 1995-5 , 1996-3 , 1997-6, 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	Barbara Youngberg	September 2006	in planning
4. NRC review	4.1 DEC sends express terms to NRC	Barbara Youngberg	4.1 October 2006	
	4.2 NRC sends comments to DEC	NRC	4.2 December 2006	
5. Comments received from affected parties	5 Comment period ends		November 2006	

**New York State Department of Environmental Conservation Program Improvement Plan
August 18, 2006**

RATS ID Numbers 1991-4, 1993-1, 1995-5 , 1996-3 , 1997-6, 1998-1, 1998-5, and 2002-1				
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
6. 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	Second quarter 2007	5.4 Regulatory Impact Statement is being drafted.
7. Approval to Send Proposed Rule to Governor's Office of Regulatory Reform (GORR)	7. Internal review and approval of draft express terms and supporting documents	Barbara Youngberg	Third quarter 2007	

**New York State Department of Environmental Conservation Program Improvement Plan
August 18, 2006**

RATS ID Numbers 1991-4, 1993-1, 1995-5 , 1996-3 , 1997-6, 1998-1, 1998-5, and 2002-1				
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
8. Approval to Propose Rule	8. Review and approval of draft express terms and supporting documents by GORR and Governor's Office.	GORR	First quarter 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	First quarter 2008	
10. Public Hearings on Proposed Rule	10. Hearings held, comment period closes	Barbara Youngberg	Second quarter 2008	

**New York State Department of Environmental Conservation Program Improvement Plan
August 18, 2006**

RATS ID Numbers 1991-4, 1993-1, 1995-5 , 1996-3 , 1997-6, 1998-1, 1998-5, and 2002-1				
Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
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	Third quarter 2008	

**New York State Department of Environmental Conservation Program Improvement Plan
August 18, 2006**

RATS ID Numbers 1991-4, 1993-1, 1995-5 , 1996-3 , 1997-6, 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	Barbara Youngberg	Fourth quarter 2008	
13 . Environmental Board Review	13. Environmental Board meets, approves final rule	Environmental Board	First quarter 2009	
14. Final Rule Adopted	14. Final rulemaking package filed at Department of State	Barbara Youngberg	First quarter 2009	

**New York State Department of Environmental Conservation Program Improvement Plan
August 18, 2006**

RATS ID #	Tasks	Milestones	Assignments	Anticipated Completion Date	Current Status or Completion Date
1998-6 2004-1 Manifests	Provide copy of revised 6 NYCRR 381 to NRC	Regulations sent to NRC	Barbara Youngberg	February 1, 2006	revised Part 381 was effective January 4, 2006
1998- 1 Deliberate Misconduct	Letter to NRC explaining existing DEC authority	Letter sent to NRC	Barbara Youngberg	March 1, 2006	NRC comments received. Incorporated into new rulemaking