

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HEIGHTENED  
OVERSIGHT CONFERENCE CALL  
July 7, 2010

<b>NRC Attendees</b>	<b>New York State Department of Environmental Conservation Attendees</b>
James Kottan, Region I RSAO	Sandra Hinkel, Chief, Radiation Control Permit Section
Michelle Beardsly, FSME	Jessie Lynch, Environmental Program Specialist
Kathleen Schneider, FSME	Robert Phaneuf, Acting Director, Bureau of Hazardous Waste & Radiation Management
Monica Orendi, FSME	Timothy Rice, Chief, Radiological Sites Section

## **SUMMARY**

On February 8, 2007, the Management Review Board (MRB) met to consider the proposed final Integrated Materials Performance Evaluation Program (IMPEP) report on the New York Agreement State Program. The MRB requested that each of the New York agencies revise and resubmit its Program Improvement Plan (Plan) as part of the response to the IMPEP. Also it was requested that bimonthly conference calls be conducted between the appropriate New York and NRC staffs to discuss each agency's revised Plan regarding their performance with compatibility requirements. On November 27, 2007, a Periodic Meeting was held with the New York State Department of Environmental Conservation (DEC). Subsequent to this Periodic Meeting, the MRB met on March 24, 2008, to consider the findings of the Periodic Meeting. The MRB requested that calls between DEC and NRC staffs continue to be conducted quarterly to discuss DEC's revised Plan regarding their performance with compatibility requirements. On July 28, 2009 another Periodic Meeting was held with the DEC. The MRB met on January 7, 2010 to consider the findings of this Periodic Meeting. The MRB requested that calls between DEC and NRC staffs continue to be conducted quarterly to discuss DEC's revised Plan regarding their performance with compatibility requirements. This is the second quarterly conference call with DEC since the January 2010 MRB meeting. DEC provided their Plan and revisions to their Plan to the NRC via e-mail (ML0722801101, ML0722801160, ML080310348, ML080310358, ML083020548, ML090230252, ML090230262, ML091250060, ML091250062, ML093060036, ML093060037, ML100990030, ML100990033, ML101880039, ML101880049, and ML101880052).

NRC staff concluded that the DEC Plan is a reasonable and realistic approach to addressing the DEC compatibility requirements with NRC. NRC staff review concluded that the tasks, milestones, and assignments for finalizing each overdue or upcoming regulation appeared reasonable and achievable. DEC continues to move forward with the most recent version of their Plan, dated July 2, 2010, although the schedule has slipped by about three months due to the workload in the Department, and other Department priorities.

The next Heightened Oversight conference call will take place in October 2010.

## **DISCUSSION OF PROGRAM IMPROVEMENT PLAN STATUS**

Ms. Hinkel and Mr. Rice provided an overview of the DEC Plan. Mr. Rice stated that the recent revision to the Plan delayed the completion date for the proposed new 6NYCRR Part 384, to address the License Termination Rule (LTR) (RATS ID 1997-6 and 1994-3) by about three

months. The outreach process has been completed, and the LTR has been submitted to other Divisions within the Department for review and approval. After review by the other Divisions in the Department, the Division performs a final review prior to Executive Office approval to send the proposed rule to the Governor's Office of Regulatory Reform. The LTR will continue through the New York State approval process with a final anticipated adoption in fall of 2011. Ms Hinkel stated that work on the New York regulations (6NYCRR Part 380) which include the following amendments: "Notification of Incidents" (RATS ID 1991-4), "Radiation Protection Requirements" (RATS ID 1995-5), "Deliberate Misconduct by Unlicensed Persons" (RATS ID 1998-1), "Minor Corrections, Clarifying Changes and a Minor Policy Change" (RATS ID 1998-5), "Revision of the Skin Dose Limit" (RATS ID 2002-1), "Expanded Definition of Byproduct Material" (RATS 2007-3), and "Total Effective Dose Equivalent" (RATS 2008-1) also continues. The initial public outreach has been completed. Stakeholder comments have been received, and the comments are being evaluated and responses written. The Draft Express Terms are being completed, and the Supporting Documents are being prepared. The anticipated time for final adoption of the Part 380 regulations is winter of 2011.

DEC continues to move forward on the regulations and continues to coordinate with the New York City Department of Health and the New York State Department of Health to ensure consistency in the adoption of regulations. Budget constraints within DEC continue, and two Program staff vacancies still remain unfilled. However, Ms. Hinkel and Mr. Rice stated that the budget constraints have not impacted the Program's ability to conduct inspections and issue permits. There are no inspections or permit issuance backlogs. DEC anticipates no significant hurdles in completing and adopting the final regulations. Additionally, a reorganization/consolidation within the Department is pending. It is anticipated that this reorganization will take place in fall 2010. DEC will keep NRC informed of the reorganization status and provide a new organization chart, if available, with the next submittal of the Plan. Also DEC staff will be participating in an NRC sponsored workshop on engineered barrier performance in August 2010. DEC will share their experience and expertise with engineered barriers in use at radioactive waste sites in New York.