

**New York State Department of Environmental Conservation**  
**Division of Environmental Remediation**  
**Radiation Control Permit Section, 12th Floor**  
625 Broadway, Albany, New York 12233-7255  
Phone: (518) 402-9625 • Fax: (518) 402-9627  
Website: [www.dec.ny.gov](http://www.dec.ny.gov)



April 4, 2014

Kathleen Schneider  
State Regulation Review Coordinator  
Agreement State Programs  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials  
and Environmental Management Programs  
U.S. Nuclear Regulatory Commission  
Washington DC 20555

Dear Ms. Schnieder:

The New York State Department of Environmental Conservation (DEC) recently reviewed the current State Regulation Status (SRS) for our agency. As a result of that review, we have concluded that the SRS needs to be updated, to accurately reflect which NRC rules DEC needs to adopt.

As you know, DEC is one of three agencies within the state that implements New York's Agreement State Program. DEC's authority is limited to the regulation of radioactive material in the environment; DEC does not issue radioactive materials licenses. As such, DEC is only authorized to adopt those NRC rules, or portions of those rules, that are applicable to the regulation of radioactive material in the environment.

Our recent review of the SRS revealed that two NRC rules that have long appeared as "open items" for DEC are not in fact applicable to DEC's radiation program. Please correct the following items appearing in the SRS, as explained below:

1. RATS #1991-4 Notification of Incidents. DEC does not need to adopt this rule, because the rule is already covered by the licensing agencies' regulations, thereby capturing all regulated parties. This issue is regulated by the licensing agencies.
2. RATS # 2002-1 Revision of the Skin Dose Limit. DEC does not need to adopt this rule, because the limit for shallow dose equivalent applies to occupational dose, which is not regulated by DEC. This issue is regulated by the licensing agencies.

In addition, five NRC rules that were recently added to the SRS are also not applicable to DEC. Please correct the following additional items appearing on the SRS, as explained below:

1. RATS #2011-2 Licenses, Certification. This rule does not apply to DEC, as it is a licensing matter and is regulated by the licensing agencies.
2. RATS #2012-1 Change of Compatibility. This rule does not apply to DEC, as it is a licensing matter and is regulated by the licensing agencies.
3. RATS #2012-2 Advance Notification. This rule does not apply to DEC, as we do not regulate the transportation of irradiated reactor fuel and nuclear waste.
4. RATS #2012-3 Technical Corrections. This rule does not apply to DEC, as we do not issue licenses for byproduct material, do not have any uranium mill sites in the state, and do not regulate the packaging of regulated material.
5. RATS #2012-4 Requirements for Distribution. This rule does not apply to DEC, as it is a licensing matter and is regulated by the licensing agencies.

To summarize the remaining NRC rules that need to be adopted by DEC: four rules will be incorporated into the amendment to the existing 6 NYCRR Part 380 regulations (RATS #1995-5, 1998-5, 2007-3, and 2008-1), and three will be adopted in a new regulation, 6 NYCRR Part 384 (RATS #1994-3, 1997-6, and 2011-1). For these remaining seven rules, DEC will adopt those portions of the rules that are within our regulatory authority.

Thank you for your attention to this matter. Please call me 518-402-9625 if you have any questions regarding this request.

Sincerely,



Sandra Hinkel, Chief  
Radiation Control Permit Section  
New York State Department of Environmental Conservation

cc: Timothy Rice, Chief, Radiological Sites Section, NYSDEC