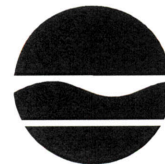


**New York State Department of Environmental Conservation
Division of Environmental Remediation
Radiation Control Permit Section, 12th Floor**

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Basil Seggos
Commissioner

February 13, 2017

Michelle Beardsley
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. Beardsley:

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 a NRC rule that has long appeared as an "open item" for DEC is not applicable to DEC's radiation program. Please correct the following item appearing in the SRS, as explained below:

RATS ID 2011-1 *Decommissioning Planning* – we recently determined this rule does not apply to DEC. After conferring with the New York licensing agencies, we confirmed that this rule will be adopted by the licensing agencies, and will capture all regulated parties.

In addition, we have determined that four new NRC rules are not applicable to DEC. Please correct the following additional items appearing on the SRS, to indicate these rules do not need to be adopted by DEC, as explained below:

1. RATS ID 2015-1 *Domestic Licensing of Special Nuclear Material*. This rule does not apply to DEC, as it is a licensing matter and is regulated by the New York licensing agencies.
2. RATS ID 2015-2 *Safeguards Information*. This rule does not apply to DEC, as it is a licensing matter and is regulated by the licensing agencies.
3. RATS ID 2015-4 *Miscellaneous Corrections*. This rule does not apply to DEC, as it is a licensing matter and is regulated by the licensing agencies.
4. RATS ID 2015-5 *Miscellaneous Corrections*. 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 existing 6 NYCRR Part 380 regulations (RATS ID 1995-5, 1998-5, 2007-3, and 2008-1), three will be incorporated into the existing 6 NYCRR Part 381 regulations (RATS ID 2012-2, 2012-3, and 2015-3), and two will be adopted in a new regulation, 6 NYCRR Part 384 (RATS ID 1994-3 and 1997-6). For these remaining nine 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