

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Remedial Bureau A
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March 29, 2017

Pamela J. Henderson, Deputy Director
Division Materials Safety, State, Tribal, and Rulemaking Programs
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
T8-E18
Washington, D.C. 20555-0001

Dear Ms. Henderson:

Enclosed is a copy of the proposed amendment to 6 NYCRR Part 380, *Prevention and Control of Environmental Pollution by Radioactive Materials*, issued by the New York State Department of Environmental Conservation (DEC). The proposed revisions will be made available for public comment on April 6, 2017 with a request for comments by June 5, 2017. We request NRC's comments by July 5, 2017.

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 materials 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.

The proposed revisions to the text of the regulations are identified in the following manner: bracketed items are deletions, and underlined items are additions. Required changes correspond to the following equivalent amendments to NRC's regulations, as outlined on the table below:

RATS ID#	TITLE	10 CFR SECTION	PART 380 SECTION	NOTES
1991-4	Notification of Incidents	20.2202 (a) – (d)	380-9.2 Notification of Incidents	DEC does not need to adopt this requirement, as it is already covered by the state licensing agencies. Nevertheless, Notification of Incidents is still included; the notification threshold has been lowered to require reporting of incidents of interest to DEC.
1995-5	Radiation Protection Requirements: Amended Definitions and Criteria	20.1003 Definitions	380-2.1 General definitions	The definitions for "members of the public" and "public dose" have been adopted. "Occupational dose" is not applicable
1997-1	Constraint	20.1101(d)	380-5.1(b) Constraint on Airborne Emissions	DEC currently implements the constraint rule by permit condition. Nevertheless, compatible provisions have been adopted.
1998-1	Deliberate Misconduct		380-10.8 Deliberate Misconduct	A provision has been adopted that will apply to permittees, applicants for permits, and contractors of any permittee or applicant, to meet the essential objectives of the NRC rule.

RATS ID#	TITLE	10 CFR SECTION	PART 380 SECTION	NOTES
1998-5	Minor corrections	20.1501	380-6.1 Surveys and Calibrations	Compatible requirements have been adopted, relating to effluent and environmental surveys.
1998-5	Minor corrections	20.2101(b) and (d)	380-8.1(b) General Provisions	Compatible requirements have been adopted relating to units.
2007-3	Requirements for Expanded Definition of Byproduct Material	Appendix B to Part 20	380-11.7 Table of Concentrations	O-15 and N-13 values have been added to the Tables of Concentrations.
2008-1	Total Effective Dose Equivalent	20.1003	380-2.1(a)(65) Total Effective Dose Equivalent	The revised definition of TEDE has been adopted.

We believe that adoption of these revisions to 6 NYCRR Part 380 satisfies the compatibility and health and safety categories established in the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-200 which are applicable to DEC's portion of New York's Agreement State program.

If you have any questions, please contact me at the address or phone number listed in the letterhead above, or e-mail me directly at sandra.hinkel@dec.ny.gov.

Sincerely,



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

Enc: Proposed Amendment to 6 NYCRR Part 380