



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

June 3, 1994

Mr. John F. Hudacs  
Commissioner of Labor  
State of New York  
Governor W. Averell Harriman  
State Office Building Campus  
Albany, NY 12240

Dear Mr. Hudacs:

I am responding to your April 8, 1994 letter to Chairman Selin in which you informed the Commission that the New York State Department of Labor has ceased to perform sealed source and device evaluations, and will not resume this responsibility until the Commission provides appropriate training.

To assist in better understanding the background for your letter, and to help us assess whether the training suggested in our March 29, 1994 letter to Rita Aldrich would be acceptable to your program, we discussed this matter with Maria Colavito and Rita Aldrich on May 6, 1994. During that discussion, your staff identified a substantive issue relating to the basic responsibility of the New York State Department of Labor to review and approve sealed sources and devices distributed by New York State licensees. The issue relates to whether the New York State Department of Labor, under terms of the New York Agreement with NRC, or under NRC or State regulations, is required to perform such reviews and approvals. Your staff noted the conduct of sealed source and device approvals had developed over the years as a voluntary process under the Agreement States program and asked that NRC provide a legal position on this issue. In response, we agree to analyze the issue and provide an interpretation of the New York State/NRC Agreement and whether that Agreement, and NRC regulations, obligate New York State to perform sealed source and device reviews and approvals.

Our Office of the General Counsel is reviewing this issue. Given the possible implications to other Agreement State programs, we plan to carefully consider the issue and its implication to the overall Agreement State program. Upon completion of our legal review and analysis, we will provide you with our findings on the responsibilities and obligations of New York State under the Agreement with NRC to perform sealed source and device reviews and approvals.

Until this matter is resolved, NRC will support the New York State Department of Labor by conducting any sealed source and device reviews that are requested by the State because of an urgent health and safety concern. NRC's point of contact for this support is Robert L. Baer, Chief, Source Containment and Devices Branch. Mr. Baer can be reached at (301) 415-8125.

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In the interim, if we may be of any assistance, please do not hesitate to contact me or Richard Bangart, Director, Office of State Programs.

Sincerely,

**Original signed by**  
**Hugh L. Thompson, Jr.**

Hugh L. Thompson, Jr.  
Deputy Executive Director for Nuclear  
Materials Safety, Safeguards and  
Operations Support

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DCD (SP01) PDR YES ☒ NO ☐

\*See previous concurrence.

\*\*E-Mailed.

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OFC	OSP:SA	OSP:DD	OSP:D	NMSS	OGC	DEDS	
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