

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC)

DATE OF MEETING: November 27, 2007

ATTENDIES:

NRC

Kathleen Schneider, Senior Project Manager, FSME
James Kottan, RSAO, Region I

New York DEC

R. Phaneuf, Acting Bureau Director
B. Youngberg, Chief, Radiological Sites Section
S. Hinkel, Chief, Radiation Control Permit Section

BACKGROUND

During the November 2006 IMPEP the review team found New York's performance to be satisfactory for all common and non-common performance indicators with the exception of the non-common performance indicator, Compatibility Requirements. This indicator was found to be unsatisfactory. Additionally, two recommendations were made by the review team. On February 8, 2007 the Management Review Board (MRB) met to consider the proposed final IMPEP report on the New York Agreement State Program. The MRB found the New York State Agreement State Program adequate to protect public health and safety and not compatible with the NRC's program. Accordingly, the MRB determined that the New York Agreement State Program should continue on Heightened Oversight. Further, the MRB requested that the New York Agreement State Program revise and submit their Program Improvement Plans (the Plans), and that bi-monthly conference calls continue. The MRB also determined that a periodic meeting should take place in November 2007.

DEC submitted their revised and updated Plan to the NRC in July 2007. After receipt and review of the Plan by NRC, the first bi-monthly call was held in September 2007. Subsequent to the bi-monthly call, a periodic meeting was scheduled for November 27, 2007. This summary describes this periodic meeting.

DISCUSSION:

Status of the State's Actions to Address All Open Previous DEC IMPEP Review Findings and/or Open Recommendations

The proposed status for each of the recommendations and suggestions in Section 5 of the New York 2006 final IMPEP is summarized below.

Recommendation 1: The review team recommends that DEC transmit inspection findings to their licensees within 30 days after the close of the inspection.

Status: The Radiation Control Permit Section Chief stated that inspection findings are now being transmitted to licensees within 30 days after the close of the inspection. The Section Chief also provided a list of DEC inspections conducted since the last IMPEP and the letter dates for transmittal of the inspection findings. All routine inspection findings were transmitted within 30 days. Inspection findings for two former land burial sites (monitoring and maintenance permits) were transmitted in excess of 30 days, but the Section Chief stated that these were complex inspections and required more time.

It is recommended that this item be closed at the next review.

Recommendation 2: The review team recommends that DEC develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility.

Status: The DEC Plan describes eight NRC amendments (seven of which are overdue) which are in the process of rule making. Based on the schedule in DEC's Plan, the regulations are scheduled to be implemented by the end of 2009.

During discussions with DEC staff, the NRC representative stated that in cases where DEC has implemented orders or license conditions in order to implement NRC amendments, DEC should submit these legally binding requirements to the NRC for compatibility review in accordance with FSME Procedure SA 201, Review of State Regulatory Requirements. Further DEC should inform the NRC of any amendments (by RATS ID) that they believe do not apply or have been previously addressed through reviews of legally binding requirements conducted under SA 201.

Strengths and/or Weaknesses of the State Program as Identified by the State or the NRC

DEC stated that their staff along with their instrumentation, including their in-house lab, was a program strength. Potential weaknesses included upcoming retirements. Although no retirements were expected in the Radiation Control Permit Section, the Chief of the Radiological Sites Section stated that she was planning to retire in 2008. DEC has been working on secession planning.

Feedback on the NRC's Program as Identified by the State, Including Identification of any Action that Should be Considered by the NRC

DEC stated that the NRC website was not user friendly, specifically the ability to link to other NRC documents. DEC welcomed the funding of training by NRC. Additionally, the attachment of PDF files to all agreement state letters was viewed by DEC as positive.

Status of the State Program Including:

a. Staffing and Training

DEC is essentially fully staffed with only two vacancies due to normal staff attrition. Vacancies are filled in a timely manner. Staff is stable with low turnover. The staff is experienced and well trained. DEC management supports staff training, and staff has attended NRC and other training courses.

b. Materials Inspection Program

At the present time there are no backlog inspections. Tracking systems are in place to monitor inspection scheduling/tracking, and management is aware of the importance of inspection program schedules. Inspection frequencies for various types of licensees are the same as or more restrictive than those listed in IMC 2800.

c. Regulations and Legislative Changes

There have been no legislative changes affecting the Agreement State Program since the last IMPEP review.

DEC has drafted regulations to address eight NRC amendments. Seven of these regulations are overdue. For DEC, the following NRC amendments are overdue for adoption:

“Notification of Incidents,” 10 CFR Parts 20, 30, 31, 34, 39, 40, and 70 amendments (58 FR 64980), that became effective on October 15, 1991, and was due for Agreement State adoption by August 15, 1994.

“Decommissioning Record keeping and License Termination: Documentation Additions,” 10 CFR Parts 30 and 40 amendments (58 FR 39628), that became effective on October 25, 1993, and was due for Agreement State adoption by October 25, 1996.

“Radiation Protection Requirements: Amended Definitions and Criteria,” 10 CFR Parts 19 and 20 amendments (60 FR 36038), that became effective on August 14, 1995, and was due for Agreement State adoption by August 14, 1998.

“Termination or Transfer of Licensed Activities: Record keeping Requirements,” 10 CFR Parts 20, 30, 40, 61, and 70 amendments (61 FR 24669), that became effective on June 17, 1996, and was due for Agreement State adoption by June 17, 1999.

“Radiological Criteria for License Termination,” 10 CFR Parts 20, 30, 40, and 70 amendments (62 FR 39057), that became effective on August 20, 1997, and was due for Agreement State adoption by August 20, 2000.

“Minor Corrections, Clarifying Changes, and a Minor Policy Change,” 10 CFR Parts 20, 30, 40, and 70 amendments (63 FR 39477, 63 FR 45393), that became effective on October 26, 1998, and was due for Agreement State adoption by October 26, 2001.

“Revision of the Skin Dose Limit,” 10 CFR Part 20 amendment (67 FR 16298), that became effective on April 5, 2002, and was due for Agreement State adoption by April 5, 2005.

d. Program Reorganizations

Since the last IMPEP a Radiation Control Permit Section has been added to the Bureau of Hazardous Waste and Radiation Management. There are now two radiation sections within the Bureau, the Radiological Sites Section and the Radiation Control Permit Section. The Radiation Control Section is responsible for the issuance of permits and inspections, and the Radiological Sites Section is responsible for all other radiological issues in the Bureau, such as facility

groundwater contamination and decommissioning activities. The two sections have a total staff of 14.

e. Changes in Program Budget/Funding

There have been no changes in program budgets or funding. DEC stated that they are adequately funded.

Event Reporting, Including Follow-Up and Closure Information in NMED

DEC typically does not have incidents that meet the criteria for reporting to NMED and has very little involvement with NMED. Since the last IMPEP (November 2006), no events have been reported to NRC.

Response to Incidents and Allegations

a. Status of Allegations and Concerns Referred by the NRC for Action

There were no allegations or concerns referred by NRC to DEC during this period.

b. Significant Events and Generic Implications

No significant events were identified or discussed during the periodic meeting.

Status of the Following Program Areas

a. Sealed Source and Device Program

Not applicable.

b. Uranium Recovery Program

Not applicable.

c. Low Level Waste Program

There are two low level waste disposal sites in New York State: West Valley and Cornell University. DEC and DOH both conduct inspections at West Valley. DEC inspections focus on environmental aspects of the site, and DOH inspections focus on radiation safety. Additionally, DOH maintains a radiological environmental monitoring program at the West Valley site. No change in the status of the program was identified.

Action Items Resulting From the Meeting

DEC will provide the NRC with updated Plans, and also documentation describing NRC amendments (by RATS ID) that do not apply or which have been implemented by license condition or order.

The NRC will provide an updated FSME organization chart to the State.

CONCLUSION:

The overall performance of the DEC program continues to be good with the exception of the “Compatibility Requirements” performance indicator, which needs improvement. DEC has submitted their Plan and is working to meet the timelines specified in that Plan in order to make their program compatible with the NRC’s program. However, NRC staff recommends that the period of Heightened Oversight should continue. Additionally, the staff recommends that quarterly conference calls between the State and NRC are appropriate to monitor the State’s progress during this period of Heightened Oversight of the New York Agreement State Program, and that a periodic meeting be held during the summer of 2009. NRC staff recommends that the next IMPEP review should be conducted as scheduled in FY 2010 (tentatively November 2010).

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR NEW YORK STATE DEPARTMENT OF HEALTH (DOH)

DATE OF MEETING: November 28, 2007

ATTENDIES:

NRC

Kathleen Schneider, Senior Project Manager, FSME
James Kottan, RSAO, Region I

New York DOH

A. Salame-Alfie, Ph.D., Acting Division Director
S. Gavitt, CHP, Director, Bureau of Environmental Radiation
Protection
G. Baker, CHP, Chief, Inspection and Enforcement Section

BACKGROUND

During the November 2006 IMPEP the review team found New York's performance to be satisfactory for all common and non-common performance indicators with the exception of the non-common performance indicator, Compatibility Requirements. This indicator was found to be unsatisfactory. Additionally, two recommendations were made by the review team. On February 8, 2007 the Management Review Board (MRB) met to consider the proposed final IMPEP report on the New York Agreement State Program. The MRB found the New York State Agreement State Program adequate to protect public health and safety and not compatible with the NRC's program. Accordingly, the MRB determined that the New York Agreement State Program should continue on Heightened Oversight. Further, the MRB requested that the New York Agreement State Program revise and submit their Program Improvement Plans (the Plans), and that bi-monthly conference calls continue. The MRB also determined that a periodic meeting should take place in November 2007.

DOH submitted their revised and updated Plan to the NRC in August 2007, and a revision to the August 2007 plan was submitted in September 2007. After receipt and review of the Plans by NRC, the first bi-monthly call was held in September 2007. Subsequent to the bi-monthly call, a periodic meeting was scheduled for November 28, 2007. This summary describes this periodic meeting.

DISCUSSION:

Status of the State's Actions to Address All Open Previous DOH IMPEP Review Findings and/or Open Recommendations

The proposed status for each of the recommendations and suggestions in Section 5 of the New York 2006 final IMPEP is summarized below.

Recommendation: The review team recommends that DOH develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility.

Status: The DOH Plan describes 16 NRC amendments which are overdue and in the process of rule making. This rulemaking will consolidate the New York Department of Labor radiation regulations in DOH regulations since the July 2006 merger of the Department of Labor's Radiological Health Unit into DOH. Based on the schedule in DOH's Plan, the regulations are scheduled to be implemented by the first quarter of 2009.

During discussions with the DOH staff, the NRC representative stated that in cases where DOH has implemented orders or license conditions in order to implement NRC amendments, DOH should submit these legally binding requirements to the NRC for compatibility review in accordance with FSME Procedure SA 201, Review of State Regulatory Requirements. Further DOH should inform the NRC of any amendments (by RATS ID) that they believe do not apply or have been previously addressed through reviews of legally binding requirements conducted under SA 201.

Strengths and/or Weaknesses of the State Program as Identified by the State or the NRC

DOH also stated that their staff was a program strength. The staff was experienced, well trained and credentialed.

Feedback on the NRC's Program as Identified by the State, Including Identification of any Action that Should be Considered by the NRC

DOH stated that the NRC web site was adequate for their needs. Additionally, DOH welcomed the funding of training by NRC. Also, the attachment of PDF files to all agreement state letters and the switch to Word by the NRC were viewed as positives.

Status of the State Program Including:

a. Staffing and Training

DOH is essentially fully staffed with only a few vacancies due to normal staff attrition. Vacancies are filled in a timely manner. Staff is stable with low turnover. The staff is experienced and well trained. Support for staff training exists in DOH, and staff has attended NRC and other training courses.

b. Materials Inspection Program

At the present time there is no inspections backlog. Tracking systems are in place to monitor inspection scheduling/tracking, and management is aware of the importance of inspection program schedules. Inspection frequencies for various types of licensees are the same as or more restrictive than those listed in IMC 2800. The first round of increased controls inspections has been completed.

c. Regulations and Legislative Changes

There have been no legislative changes affecting the Agreement State Program since the last IMPEP review. However, Article 35 of the Public Health Law was amended to require a licensure program for nuclear medicine technicians. The licensure program is to be implemented by January 1, 2009.

DOH submitted their Plan which describes 16 NRC amendments which are overdue and in the process of rulemaking. The Plan includes New York Department of Labor regulations that will be consolidated with DOH regulations since the merger of the Department of Labor's Radiological Health Unit into DOH. DOH expects to submit the draft regulations for NRC review in January 2008.

For DOH, the following NRC amendments are overdue for adoption:

"Radiation Protection Requirements: Amended Definitions and Criteria," 10 CFR Parts 19 and 20 amendments (60 FR 36038), that became effective on August 14, 1995, and was due for Agreement State adoption by August 14, 1998.

"Medical Administration of Radiation and Radioactive Materials," 10 CFR Parts 20 and 35 amendments (60 FR 48623), that became effective on October 20, 1995, and was due for Agreement State adoption by October 20, 1998

"Compatibility with the International Atomic Energy Agency," 10 CFR Part 71 amendment (60 FR 50248 and 61 FR 28724), that became effective on April 1, 1996, and was due for Agreement State adoption on April 1, 1999

"Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction With an Agreement State," 10 CFR Part 150 amendment (62 FR 1662), that became effective on February 27, 1997, and was due for Agreement State adoption by February 27, 2000.

"Criteria for the Release of Individuals Administered Radioactive Material," 10 CFR Parts 20 and 35 amendments (62 FR 4120), that became effective on May 29, 1997, and was due for Agreement State adoption by May 29, 2000.

"Deliberate Misconduct by Unlicensed Persons," 10 CFR Parts 30, 40, and 70 amendments (63 FR 1890, 63 FR 13773), that became effective on February 12, 1998, and was due for Agreement State adoption by February 12, 2001.

"Minor Corrections, Clarifying Changes, and a Minor Policy Change," 10 CFR Parts 20, 30, 40, and 70 amendments (63 FR 39477, 63 FR 45393), that became effective on October 26, 1998, and was due for Agreement State adoption by October 26, 2001.

"Revision of the Skin Dose Limit," 10 CFR Part 20 amendment (67 FR 16298), that became effective on April 5, 2002, and was due for Agreement State adoption by April 5, 2005.

“Medical Use of Byproduct Material,” 10 CFR Parts 20, 32, and 35 amendments (67 FR 20249), that became effective on April 24, 2002, and was due for Agreement State adoption by October 24, 2005.

“Compatibility with IAEA Transportation Safety Standards and other Transportation Safety Amendments,” 10 CFR Part 71 amendment (69 FR 3697), that became effective on October 1, 2004, and is due for Agreement State adoption by October 1, 2007.

“Termination or Transfer of Licensed Activities: Recordkeeping Requirements,” 10 CFR Parts 20, 30, 40, 61, and 70 amendments (61 FR 24669), that became effective on June 17, 1996, and was due for Agreement State adoption by June 17, 1999.

“Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations,” 10 CFR Parts 30, 34, 71, and 150 amendments (62 FR 28947), that became effective on June 27, 1997, and was due for Agreement State adoption by June 27, 2000.

“Radiological Criteria for License Termination,” 10 CFR Parts 20, 30, 40, and 70 amendments (62 FR 39057), that became effective on August 20, 1997, and was due for Agreement State adoption by August 20, 2000.

“Energy Compensation Sources for Well Logging and Other Regulatory Clarifications,” 10 CFR Part 39 amendment (65 FR 20337), that became effective on May 17, 2000, and was due for Agreement State adoption by May 17, 2003.

“New Dosimetry Technology,” 10 CFR Parts 34, 36, and 39 amendments (65 FR 63749), that became effective on January 8, 2001, and was due for Agreement State adoption by January 8, 2004.

“Medical Use of Byproduct Material,” 10 CFR Parts 20, 32, and 35 amendments (67 FR 20249), that became effective on April 24, 2002, and was due for Agreement State adoption by April 24, 2005.

“Financial Assurance for Materials Licensees,” 10 CFR Parts 30, 40, and 70 amendments (68 FR 57327), that became effective on December 3, 2003, and was due for Agreement State adoption by December 3, 2006.

“Compatibility with IAEA Transportation Safety Standards and other Transportation Safety Amendments,” 10 CFR Part 71 amendment (69 FR 3697), that became effective on October 1, 2004, and is due for Agreement State adoption by October 1, 2007.

For DOH, the following NRC amendments will need to be addressed in upcoming rulemakings or by adopting alternate legally binding requirements:

“Minor Amendments,” 10 CFR Parts 20, 30, 32, 35, 40, and 70 amendments (71 FR 15005), that became effective on March 27, 2006, and is due for Agreement State adoption by March 27, 2009.

“Security Requirements for Portable Gauges Containing Byproduct Material,” 10 CFR Part 30 amendment (70 FR 2001), that became effective on July 11, 2005, and is due for Agreement State adoption by July 11, 2008.

“Minor Amendments,” 10 CFR Parts 20, 30, 32, 35, 40, and 70 amendments (71 FR 15005), that became effective on March 27, 2006, and is due for Agreement State adoption by March 27, 2009.

DOH has drafted legally binding requirements for the following NRC amendments; however, they have not been submitted to the NRC for a compatibility review:

“Decommissioning Recordkeeping and License Termination: Documentation Additions,” 10 CFR Parts 30 and 40 amendments (58 FR 39628), that became effective on October 25, 1993, and was due for Agreement State adoption by October 25, 1996.

“Timeliness in Decommissioning Material Facilities,” 10 CFR Parts 30, 40, and 70 amendments (59 FR 36026), that became effective on August 15, 1994, and was due for Agreement State adoption by August 15, 1997.

“Frequency of Medical Examinations for Use of Respiratory Protection Equipment,” 10 CFR Part 20 amendment (60 FR 7900), that became effective on March 13, 1995, and was due for Agreement State adoption by March 13, 1998

“Clarification of Decommissioning Funding Requirements,” 10 CFR Parts 30, 40, and 70 amendments (60 FR 38235), that became effective on November 24, 1995, and was due for Agreement State adoption by November 24, 1998.

“Termination or Transfer of Licensed Activities: Recordkeeping Requirements,” 10 CFR Parts 20, 30, 40, 61, and 70 amendments (61 FR 24669), that became effective on June 17, 1996, and was due for Agreement State adoption by June 17, 1999.

“Radiological Criteria for License Termination,” 10 CFR Parts 20, 30, 40, and 70 amendments (62 FR 39057), that became effective on August 20, 1997, and was due for Agreement State adoption by August 20, 2000.

“Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea,” 10 CFR Part 30 amendment (62 FR 63634), that became effective on January 2, 1998, and was due for Agreement State adoption by January 2, 2001.

“Respiratory Protection and Controls to Restrict Internal Exposure,” 10 CFR Part 20 amendment (64 FR 54543, 64 FR 55524), that became effective on February 2, 2000, and was due for Agreement State adoption by February 2, 2003.

“Financial Assurance for Materials Licensees,” 10 CFR Parts 30, 40, and 70 amendments (68 FR 57327), that became effective on December 3, 2003, and was due for Agreement State adoption by December 3, 2006.

“Medical Use of Byproduct Material - Recognition of Specialty Boards,” 10 CFR 35 Part amendment (70 FR 16336; 71 FR 1926), that became effective on April 29, 2005, and is due for Agreement State adoption by April 29, 2008.

d. Program Reorganizations

There have been no program reorganizations since the last IMPEP.

e. Changes in Program Budget/Funding

There have been no changes in program budgets or funding. DOH stated that they are adequately funded.

Event Reporting, Including Follow-Up and Closure Information in NMED

DOH staff indicated that they are reporting incidents to NRC and NMED when appropriate in a prompt manner. Since the last IMPEP (November 2006) three events have been reported.

Response to Incidents and Allegations

a. Status of Allegations and Concerns Referred by the NRC for Action

There were no allegations or concerns referred by NRC to the State during this period.

b. Significant Events and Generic Implications

No significant events were identified or discussed during the periodic meeting.

Status of the Following Program Areas

a. Sealed Source and Device Program

DOH has sole responsibility for performing SS&D evaluations in the State of New York. Since the last IMPEP no new SS&D evaluations have been performed.

b. Uranium Recovery Program

Not applicable.

c. Low Level Waste Program

There are two low level waste disposal sites in New York State: West Valley and Cornell University. DEC and DOH both conduct inspections at West Valley. DEC inspections focus on environmental aspects of the site, and DOH inspections focus on radiation safety. Additionally, DOH maintains a radiological environmental monitoring program at the West Valley site. No change in the status of the program was identified.

Action Items Resulting From the Meeting

DOH will provide the NRC with an updated Plan, and also documentation describing NRC amendments (by RATS ID) that do not apply or which have been implemented by license condition or order.

The NRC will provide an updated FSME organization chart to DOH.

CONCLUSION:

The overall performance of all DOH continues to be good with the exception of the "Compatibility Requirements" performance indicator, which needs improvement. DOH has submitted their Plan and is working to meet the timelines specified in that Plan in order to make their program compatible with the NRC's program. However, NRC staff recommends that the period of Heightened Oversight should continue. Additionally, the staff recommends that quarterly calls between the State and NRC continue in order to monitor the State's progress during this period of Heightened Oversight of the New York Agreement State Program, and that a periodic meeting be held during the summer of 2009. NRC staff recommends that the next IMPEP review should be conducted as scheduled in FY 2010 (tentatively November 2010).

AGREEMENT STATE PERIODIC MEETING SUMMARY FOR NEW YORK CITY DEPARTMENT OF HEALTH (NYC)

DATE OF MEETING: November 29, 2007

ATTENDIES:

NRC

Kathleen Schneider, Senior Project Manager, FSME
James Kottan, RSAO, Region I

NYC

A. Goldberg, Assistant Commissioner
G. Miskin, Director, Office of Radiological Health
T. Lickerman, Chief, Radioactive Materials & Radioactive
Materials Licensing Unit

BACKGROUND

During the November 2006 IMPEP the review team found New York's performance to be satisfactory for all common and non-common performance indicators with the exception of the non-common performance indicator, Compatibility Requirements. This indicator was found to be unsatisfactory. Additionally, two recommendations were made by the review team. On February 8, 2007 the Management Review Board (MRB) met to consider the proposed final IMPEP report on the New York Agreement State Program. The MRB found the New York State Agreement State Program adequate to protect public health and safety and not compatible with the NRC's program. Accordingly, the MRB determined that the New York Agreement State Program should continue on Heightened Oversight. Further, the MRB requested that the New York Agreement State Program revise and submit their Program Improvement Plans (the Plans), and that bi-monthly conference calls continue. The MRB also determined that a periodic meeting should take place in November 2007.

NYC's revised and updated Plan was submitted to the NRC in July 2007. After receipt and review of the Plan by NRC, the first bi-monthly call was held in September 2007. Subsequent to the bi-monthly call, a periodic meeting was scheduled for November 29, 2007. This summary describes this periodic meeting.

DISCUSSION:

Status of the State's Actions to Address All Open Previous IMPEP Review Findings and/or Open Recommendations

The proposed status for each of the recommendations and suggestions in Section 5 of the New York 2006 final IMPEP is summarized below.

Recommendation: The review team recommends that NYC develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility.

Status: The NYC Plan describes five NRC amendments (three of which are overdue) which are in the process of rule making. Based on the schedule in NYC's plan, the regulations are scheduled to be implemented by the second quarter of 2008. However, NYC coordinates the adoption of their regulations with those of the New York State Department of Health (DOH), so there will be some adjustment to their schedule based on DOH progress.

During discussions with NYC staff, the NRC representative stated that in cases where NYC has implemented orders or license conditions in order to implement NRC amendments, DOH should submit these legally binding requirements to the NRC for compatibility review in accordance with FSME Procedure SA 201, Review of State Regulatory Requirements. Further NYC should inform the NRC of any amendments (by RATS ID) that they believe do not apply or have been addressed through previous reviews of legally binding requirements conducted under SA 201.

Strengths and/or Weaknesses of the State Program as Identified by the State or the NRC

NYC stated that staffing, the security program and the radiological emergency plan were program strengths along with staff training. NYC also noted the implementation of a data base for tracking and managing the materials program. The data base, NYCRADDS, will track the amount of material possessed by licensees, the materials inspection program, and any issues captured from the city's 311 system. Licensees have access to the data base with the ability to enter data in order to keep the data base current.

Additionally, NYC has determined ambient radiation levels for the five New York City boroughs for use in an emergency response or security incident. The security program, which also involves the New York Police Department, included the capability to generate maps of the radiation levels for areas of the city and maps of the radiation levels in individual buildings.

Feedback on the NRC's Program as Identified by the State, Including Identification of any Action that Should be Considered by the NRC

NYC stated that the NRC web site was adequate for their needs. Also NYC welcomed the funding of training by NRC. Additionally, the attachment of PDF files to all agreement state letters and the switch to Word by the NRC were viewed as positives.

Status of the State Program Including:

a. Staffing and Training

NYC is essentially fully staffed with only a few vacancies due to normal staff attrition. Vacancies are filled in a timely manner. Staff is stable with low turnover. The staff is experienced and well trained. NYC supports staff training, and staff has attended NRC and other training courses.

b. Materials Inspection Program

At the present time there are no inspection backlogs. Tracking systems are in place to monitor inspection scheduling/tracking, and management is aware of the importance of inspection program schedules. Inspection frequencies for various types of licensees are the same as or more restrictive than those listed in IMC 2800. The first round of increased controls inspections has been completed.

c. Regulations and Legislative Changes

There have been no legislative changes affecting the Agreement State Program since the last IMPEP review.

NYC submitted their Plan which describes five NRC amendments which are in the process of rule making. Some of the amendments cannot be implemented until DOH has adopted similar requirements to ensure consistent regulation of licensees through out the State and to prevent transboundary issues when licensees cross jurisdictions. NYC and DOH meet on a quarterly basis to discuss the status of the regulations.

For NYC, the following NRC amendments are overdue for adoption:

“Medical Use of Byproduct Material,” 10 CFR Parts 20, 32, and 35 amendments (67 FR 20249) that became effective on April 24, 2002, and was due for Agreement State Adoption by October 24, 2005.

“Financial Assurance for Materials Licensees,” 10 CFR Parts 30, 40, and 70 amendments (68 FR 57327), that became effective on December 3, 2003, and was due for Agreement State adoption by December 3, 2006.

“Compatibility with IAEA Transportation Safety Standards and other Transportation Safety Amendments,” 10 CFR Part 71 amendment (69 FR 3697), that became effective on October 1, 2004, and is due for Agreement State adoption by October 1, 2007.

For NYC, the following NRC amendments will need to be addressed in upcoming rulemakings or by adopting alternate legally binding requirements:

“Medical Use of Byproduct Material - Recognition of Specialty Boards,” 10 CFR 35 Part amendment (70 FR 16336; 71 FR 1926), that became effective on April 29, 2005, and is due for Agreement State adoption by April 29, 2008.

“Minor Amendments,” 10 CFR Parts 20, 30, 32, 35, 40, and 70 amendments (71 FR 15005), that became effective on March 27, 2006, and is due for Agreement State adoption by March 27, 2009.

d. Program Reorganizations

There have been no materials program reorganizations since the last IMPEP.

e. Changes in Program Budget/Funding

There have been no changes in program budgets or funding. NYC stated that they are adequately funded.

Event Reporting, Including Follow-Up and Closure Information in NMED

NYC staff stated that they are reporting incidents to NRC and NMED when appropriate in a prompt manner. Since the last IMPEP (November 2006), no events have been reported.

Response to Incidents and Allegations

a. Status of Allegations and Concerns Referred by the NRC for Action

There were no allegations or concerns referred by NRC to the State during this period.

b. Significant Events and Generic Implications

No significant events were identified or discussed during the periodic meeting.

Status of the Following Program Areas

a. Sealed Source and Device Program

Not applicable.

b. Uranium Recovery Program

Not applicable.

c. Low Level Waste Program

Not applicable.

Action Items Resulting From the Meeting

NYC will provide the NRC with updated Plans, and also documentation describing NRC amendments (by RATS ID) that do not apply or which have been implemented by license condition or order.

The NRC will provide an updated FSME organization chart to the State.

CONCLUSION:

The overall performance of the NYC program continues to be good with the exception of the "Compatibility Requirements" performance indicator, which needs improvement. NYC has submitted their Plan and is working to meet the timelines specified in that Plan in order to make their programs compatible with the NRC's program. However, NRC staff recommends that the period of Heightened Oversight should continue. Additionally, the staff recommends that quarterly conference calls between the State and NRC are appropriate to monitor the State's progress during this period of Heightened Oversight of the New York Agreement State Program, and that a periodic meeting be held during the summer of 2009. NRC staff recommends that the next IMPEP review should be conducted as scheduled in FY 2010 (tentatively November 2010).