



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

December 11, 2003

Barbara Youngberg, Chief
Radiation Section
Division of Hazardous Waste and Radiation Management
New York Department of Environmental Conservation
625 Broadway, 8th Floor
Albany, NY 12233-7255

SUBJECT: PERIODIC MANAGEMENT MEETING SUMMARY

Dear Ms. Youngberg:

A periodic meeting with the New York Department of Environmental Conservation was held on November 12, 2003. The purpose of the meeting was to review and discuss the status of the New York Agreement State program. The NRC was represented by Kevin Hsueh from the NRC's Office of State and Tribal Programs and me. Specific topics and issues of importance discussed at the meeting included the Department's actions taken in response to the IMPEP recommendations.

I have completed and enclosed a general meeting summary, included any specific actions that will be taken as a result of the meeting.

If you feel that our conclusions do not accurately summarize the meeting discussions, or have any additional remarks about the meeting in general, please contact me at (610) 337-5042 or by e-mail at adw@nrc.gov to discuss your concerns.

Thank you for your cooperation.

Sincerely,

Original signed by Duncan White

Duncan White, CHP
Regional State Agreements Officer
Division of Nuclear Materials Safety

cc:
R. Bores, RI
K. Hsueh, STP

B. Youngberg
NYDEC Radiation Section

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

DATE OF MEETING: November 12, 2003

ATTENDEES:

Duncan White, RSAO
Kevin Hsueh, ASPO
Barbara Youngberg, Program Manager
Tom Papura, NRC Formerly Licensed Sites Grant Project
John Zeh, Regulations Coordinator
Sandra Hinkel, Part 380 Permit Unit Supervisor

DISCUSSION:

The proposed status of each of the four recommendations applicable to DEC in Section 5.0 of the 2002 Integrated Materials Performance Evaluation Program (IMPEP) review of New York is summarized below.

1. The review team recommends that NYC, DOL and DEC perform core inspections in a timely manner, and that NYC take appropriate action to improve the tracking mechanisms necessary to evaluate their own timeliness for initial inspections. (Section 3.1.5)

Current Status: DEC currently has 36 permittees for the discharge of radioactive materials into the environment from facilities licensed and inspected by one of the other three New York radiological protection agencies. Permittees are required to report their discharges annually to DEC. The Section has revised its inspection priorities to routinely inspect its permittees based primarily on the amount of actual environmental discharges rather than based on the maximum allowed level in the permit. Initial inspections are conducted within six months of the start of operations. An annual reevaluation will be conducted to reassign the inspection priorities based on actual emissions. Based on the new frequencies and current staffing levels, the Section expects to conduct inspections in a timely manner. It is recommended that this item be verified at the next IMPEP review.

2. The review team recommends that NYC and DEC transmit inspection findings to their licensees within thirty days after the close of the inspection. (Section 3.1.5)

Current Status: The Program Manager indicated that inspection reports are generally issued within 30 days and none of exceeded 40 days. It is recommended that this item be verified at the next IMPEP review.

3. The team recommends that DOL and DEC perform annual supervisory accompaniments of all materials inspectors. (Section 3.2.5)

Current Status: The Program Manager indicated that nearly all inspectors are accompanied on an annual basis. It is recommended that this item be verified at the next IMPEP review.

4. The team recommends that each New York Agency (NYC, DOH, DEC, and DOL) develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility. (Section 4.1.3)

Current Status: The Program Manager and the Section's Regulations Coordinator discussed the status of each overdue and due NRC regulations required for compatibility. Since the last review, the Section has made some progress with the adoption of the license termination rule. The Section has adopted the constraint rule by license condition, but will incorporate into this amendment into their regulations. All new and revised State regulations require approval of the Governor's Office of Regulatory Reform (GORR). The review of pending State regulations by GORR adds several months to regulation adoption process. NRC staff reviewed STP's regulations review process with the Section and encouraged that the Section review the status of the DEC regulations on the STP web site for completeness and accuracy. It is recommended that this item remain open.

Since the last IMPEP, two individuals left the program (Paul Merges and Robert Rommel). There are currently three vacancies in the Radiation Section: one in the Permit Unit (directly related to Agreement State activities); a federally funded position related to Brookhaven National Laboratory; and a position in the contaminated sites group. The Section currently has 10 technical and two administrative staff members. There is currently a Statewide hiring freeze. The Program Manager indicated that the Section has requested an exemption to fill the federally funded position. The Section will be able to maintain its radiation laboratory and sample preparation capability despite a planned revision of the lease.

The Program Manager indicated that there is currently sufficient funding to perform Section related activities except for out-of state travel. The Section's current funding level is essential the same as last fiscal year, but the Program Manager expects a decrease in funding for the next fiscal year (starts April 1, 2004). Current priorities in the Section include cyclotrons, Brookhaven, FUSRAP sites, Hicksville cleanup and West Valley. There have been no changes in the Section's responsibilities or governing legislation since the last review.

The Program Manager discussed the issue of succession planning with the Department. This issue has received attention at the high levels of the Department, but has yet to be examined in detail at the Section level. Within the next 10 years, the Program Manager indicated that four of the current staff would be eligible for retirement. Due to the current fiscal status of the State, it is difficult to hire new staff to replace those individuals who will retire or move into more responsible positions. Due to the maturity and experience of the professional staff, the Section has not expended much effort with regard to documenting the training and qualification required for the positions in the Section. NRC staff indicated that this documentation would be useful to justify the needs for replacement professional staff.

The NRC staff discussed the recent developments regarding the nominations for the two vacant Commission positions. Also discussed was the consolidation of the Region I and Region II materials programs, the status of the feline hyperthyroidism policy, the status of National Materials Program pilot projects, materials security issues as they impacted the States, changes in the NMED database and program and the potential impact of NRC's aging workforce (i.e., succession planning). NRC staff also highlighted the proposed changes to two documents that directly affect the IMPEP process: Management Directive 5.6 and STP Procedure SA-116. There was also a discussion of the recent GAO report on the security of radioactive materials, the status of various proposals in Congress to amend the Atomic Energy Act and the current status of a unified federal standard for remediation after an event involving radioactive materials.

When asked about the Program's strengths, the Program Manager identified the Section's experienced staff and availability of equipment. With regard to weakness, the Program Manager identified the staffing vacancies and the need to update their regulations. Although the Program favorably viewed the NRC's willingness to involve the States more frequently on a number of issues, the Program felt that the NRC should be more involved with FUSRAP related issues. The Section indicated that they have not had to adjust to NRC's decision in the 1990s to discontinue funding of Agreement State staff training since current staff received training prior to the change in NRC policy. Securing sufficient funds for training new staff will become a challenge for the Section in the near future, particularly with the current fiscal issues facing the State.

The Program Manager and Section staff discussed the status of the NRC formerly licensed sites grant project. Under the grant project, DEC is reviewing ten license files, which consist of 14 sites. Ten sites have been closed out and four sites still need site visits or further review. A status report was being finalized and will be sent to NRC shortly. DEC plans to request a six month extension of the grant project. The Program Manager expects that the grant project will be completed by the middle of April 2004.

The Program Manager indicated that the Section prepares monthly metrics and a report of programmatic highlights. The Section also performs a quarterly assessment of the inspection program.

There were no allegations referred to the Program by NRC Region I since the last IMPEP. The Program receives one or two allegations a year. There were no reportable events since the last review.

The NRC staff indicated that next IMPEP of the New York Agreement State Program is scheduled for FY 2006. No issues were identified by NRC staff to change the scheduling of the next review.



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December 18, 2003

Adela Salame-Alfie, Ph.D., Director
Bureau of Environmental Radiation Protection
New York Department of Health
547 River Street
Troy, NY 12180-2216

SUBJECT: PERIODIC MANAGEMENT MEETING SUMMARY

Dear Dr. Salame-Alfie:

A periodic meeting with the New York State Department of Health was held on November 13, 2003. The purpose of the meeting was to review and discuss the status of the New York Agreement State program. The NRC was represented by Kevin Hsueh from the NRC's Office of State and Tribal Programs and me. Specific topics and issues of importance discussed at the meeting included the Department's actions taken in response to the IMPEP recommendations.

I have completed and enclosed a general meeting summary, included any specific actions that will be taken as a result of the meeting.

If you feel that our conclusions do not accurately summarize the meeting discussions, or have any additional remarks about the meeting in general, please contact me at (610) 337-5042 or by e-mail at adw@nrc.gov to discuss your concerns.

Thank you for your cooperation.

Sincerely,

Original signed by Duncan White

Duncan White, CHP
Regional State Agreements Officer
Division of Nuclear Materials Safety

cc:
K. Hsueh, STP
R. Bores, RI

A. Salame-Alfie
Bureau of Environmental Radiation Protection

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

DATE OF MEETING: November 13, 2003

ATTENDEES:

Duncan White, RSAO
Kevin Hsueh, ASPO
Adela Salame-Alfie, Program Director
Steven Gavitt, Assistant Program Director
Robert Dansereau, Radioactive Materials Section Chief
Cynthia Costello, Environmental Section Chief
Gary Baker, Field Operations Section Chief
Dave Sternberg, Database Development
Denise Cook, Database Development

DISCUSSION:

The proposed status of each of the three recommendations applicable to DOH in Section 5.0 of the 2002 Integrated Materials Performance Evaluation Program (IMPEP) review of New York is summarized below.

1. The review team recommends that DOH provide prompt, in-depth, documented review of events with the potential for significant health and safety consequences. (Section 3.5.5)

Current Status: The program initiated in June 2003 the use of an in-house developed database (called INCIDENT) for the use of tracking and documenting all events reported to the Bureau. The database is based on Power Builder software and resides on the Department's network servers. It is linked to the Bureau's registration and materials database. The database allows management to assign and review the progress of the follow up for an event or groups of events. In addition to the database, an event folder is prepared to maintain hard copies of reports or correspondence related to the event. Certain fields have user rights assigned only to managers (i.e., event closeout). The development team and the Radioactive Materials Section Chief demonstrated the use of the database to the NRC staff. All events in 2003 are entered into the database. Pre-2003 events residing in another database have been imported into INCIDENT, but the information has not been updated. To date this year, the Bureau has received notification of approximately 140 incidents (majority of the incidents are related to trash calls and accelerators). It is recommended that this item be verified at the next IMPEP review.

2. The review team recommends that NYC, DOL and DOH draft and implement a method to ensure timely submittal of information to NRC and the Nuclear Materials Event Database (NMED) and implementation an effective procedure to identify, track and review all incident reports. (Section 3.5.5)

Current Status: The Bureau has reported three events to NMED since the last IMPEP review. The INCIDENT database includes specific fields for the identification and reporting of events that require reporting to the NRC. The NRC staff discussed the changes to the NMED database including fields to indicate if an event is closed or not. NRC staff also suggested that the Bureau view their events from the NMED web site externally to ensure that all information has been entered into the national database. It is recommended that this item be verified at the next IMPEP review.

3. The team recommends that each New York Agency (NYC, DOH, DEC, and DOL) develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility. (Section 4.1.3)

Current Status: The Bureau plans to update their regulations to incorporate the overdue and due NRC amendments. The Bureau met with their Radiological Health Advisory Board on November 4 to discuss the adoption of Part 35. The Bureau still has concerns with the Part 35 training and experience requirements, particularly those recently published in the Federal register for comments. Draft revisions to the regulations will be submitted to the Advisory Board in the near future. The anticipated time frame for the adoption of the regulations maybe a few years. This recommendation remains open.

Since the last IMPEP, a few of the technical staff have taken on new responsibilities in the Bureau. Cynthia Costello moved into the supervisor position for the Environmental Section but will still be involved in the Radioactive Materials Section. Jerry Collins, currently in the Radon program has started cross training in the Radioactive Materials Section. There are currently no unfilled positions in the Radioactive Materials Section, but the Radiation Equipment Section is in the process of hiring a new person. There have been no legislative changes that affected the Agreement State program. The Bureau is 100% fee funded with monies going to a dedicated fund. The radon and mammography programs are supported by federal funds.

Strengths identified by the program include their good working relationship with the regulated community, good internal support (i.e., INCIDENT database) and the Bureau's experienced staff. The program identified their cumbersome regulatory adoption process as a weakness. The Bureau staff noted STP efforts to improve NRC support for State programs and the improved level of communication and consultation with the States. The Assistant Program Manager noted that the Commission's decisions regarding Part 35 training and education issues were not in the best interest of States' ability to remain compatibility with the NRC.

The Bureau has expended a significant amount of resources on outreach programs for emergency preparedness which includes supporting local communities with training, procedures and calibration of radiological equipment made available by post-September 11 programs. The Bureau indicated that a significant amount of radiological equipment has made its way to the local levels throughout the State.

The NRC staff discussed the recent developments regarding the nominations for the two vacant Commission positions. Also discussed was the consolidation of the Region I and Region II materials programs, the status of the feline hyperthyroidism policy, the status of National Materials Program pilot projects, materials security issues as they impacted the States, changes in the NMED database and program and the potential impact of NRC's aging workforce (i.e., succession planning). NRC staff also highlighted the proposed changes to two documents that directly affect the IMPEP process: Management Directive 5.6 and STP Procedure SA-116. There was also a discussion of the recent GAO report on the security of radioactive materials, and the status of various proposals in Congress to amend the Atomic Energy Act.

The Assistant Program Manager indicated that the Bureau prepares monthly metrics and a report of programmatic highlights.

There were no allegations referred to the Bureau by NRC Region I since the last IMPEP.

The NRC staff indicated that next IMPEP of the New York Agreement State Program is scheduled for FY 2006. No issues were identified by NRC staff to change the scheduling of the next review.



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December 11, 2003

Clayton J. Bradt, C.H.P.
Principal Radiophysicist
Radiological Health Unit
Division of Safety and Health
New York State Department of Labor
NYS Office Campus, Bldg. 12, Room 169
Albany, NY 12240

SUBJECT: PERIODIC MANAGEMENT MEETING SUMMARY

Dear Mr. Bradt:

A periodic meeting with the New York Department of Labor was held on November 13, 2003. The purpose of the meeting was to review and discuss the status of the New York Agreement State program. The NRC was represented by Kevin Hsueh from the NRC's Office of State and Tribal Programs and me. Specific topics and issues of importance discussed at the meeting included the Department's actions taken in response to the IMPEP recommendations and security of radioactive materials.

I have completed and enclosed a general meeting summary, included any specific actions that will be taken as a result of the meeting.

If you feel that our conclusions do not accurately summarize the meeting discussions, or have any additional remarks about the meeting in general, please contact me at (610) 337-5042 or by e-mail at adw@nrc.gov to discuss your concerns.

Thank you for your cooperation.

Sincerely,

Original signed by Duncan White

Duncan White, CHP
Regional State Agreements Officer
Division of Nuclear Materials Safety

cc:
K. Hsueh, STP
R. Bores, RI

C. Bradt
Radiological Health Unit

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR NEW YORK DEPARTMENT OF LABOR (DOL)

DATE OF MEETING: November 13, 2003

ATTENDEES:

Duncan White, RSAO
Kevin Hsueh, ASPO
Clayton Bradt, Program Director
Anthony Germano, Division Director

DISCUSSION:

The proposed status of each of the four recommendations applicable to DOL in Section 5.0 of the 2002 Integrated Materials Performance Evaluation Program (IMPEP) review of New York is summarized below.

1. The review team recommends that NYC, DOL and DEC perform core inspections in a timely manner, and that NYC take appropriate action to improve the tracking mechanisms necessary to evaluate their own timeliness for initial inspections. (Section 3.1.5)

Current Status: The Program Director indicated that all inspections are currently up to date and that inspectors are starting to inspect licensees due in the next quarter. It is recommended that this item be verified at the next IMPEP review.

2. The team recommends that DOL and DEC perform annual supervisory accompaniments of all materials inspectors. (Section 3.2.5)

Current Status: The Program Director has accompanied some inspectors since the last review and plans to continue accompaniments. It is recommended that this item be verified at the next IMPEP review.

3. The review team recommends that NYC, DOL and DOH draft and implement a method to ensure timely submittal of information to NRC and the Nuclear Materials Event Database (NMED) and implementation an effective procedure to identify, track and review all incident reports. (Section 3.5.5)

Current Status: DOL hosted NMED training on September 16 at their Albany office which was attended by other New York program offices and other Agreement State representatives from New England. DOL indicated that they fully support the reporting of radiological events for the purposes of sharing with other agencies as a matter of health and safety. They have chosen not to report events to the NRC in accordance with the requirements in STP Procedure SA-300 "Reporting of Material Events", mainly due to philosophical differences with NRC policies. Program Director continues to hold the view that DOL does not have an obligation to promptly report incidents to the NRC that do not directly impact NRC licensees or licensees from other Agreement States. NRC staff stated that prompt event reporting is still an important issue at the NRC, particular due to the interest in the security at nuclear facilities and that the Commission

continues to view event reporting as a matter of comparability. This recommendation remains open.

4. The team recommends that each New York Agency (NYC, DOH, DEC, and DOL) develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility. (Section 4.1.3)

Current Status: The Program Director indicated that several amendments to the DOL regulations have been prepared and will send to the Department's legal staff for review by the end of the year. Adoption of the regulations will probably take a few years and will also require approval by the Governor's Office of Regulatory Reform. DOL has adopted portions of the general licensee rule by license condition. The program is also implementing the license termination rule and plans to adopt the rule. This recommendation remains open.

The Division Director indicated that he is currently serving on an Occupational Safety and Health Agency (OSHA) Task Force involved with developing safety and health procedures to support emergency response personnel that could be involved in responding to terrorist or other catastrophic disasters. There was a discussion regarding NRC activities in this area, particularly NRC's coordination with other federal agencies, particularly the Department of Homeland Security. DOL also inquired about the status of the National Response Plan. After the meeting, the RSAO provided the Program Director with the desired information.

Since the last IMPEP, one individual retired from the program (Andrew Awai). This position remains vacant. The program currently has eight technical and four administrative staff members. There is currently a Statewide hiring freeze and that an exemption is required to fill the vacant position. The Program Director indicated that the program's experienced staff continues to be its greatest strength.

The Program Director indicated that the program's funding level is essential the same as last fiscal year. The program currently covers approximately 40% of its operating costs through fees with the balance from the general state funds. There have been no changes in the program's responsibilities or governing legislation since the last review.

The Program Director expressed his concern over the NRC's use of national security to directly regulate Agreement State licensees. It is the Program Director's position that the Agreement States could have implemented the necessary actions under the public health and safety provisions of the Agreement to ensure the security of licensed radioactive materials. NRC's decisions to pursue actions under national defense were not generally well thought out and have resulted in complicating and damaging the NRC's relationship with the Agreement States. As examples, the Program Director indicated the need to negotiate Section 271i Agreements for the States to perform the inspections and need for the States (and some licensees) to handle safeguards information.

Finally, despite NRC's assurances that the security and health and safety issues can be dealt with separately, The Program Director stated that circumstances may push a greater NRC role in Agreement State matters. The Program Director referred to a petition recently received by the NRC from a community group in Brooklyn pursuing the closing of a waste broker licensee based on the security concerns. By pursuing security concerns at an Agreement State licensee, a local community group can bypass the State and force the NRC, at a minimum, to expend its resources on matters that it would normally not be engaged.

The NRC staff discussed the recent developments regarding the nominations for the two vacant Commission positions. Also discussed was the consolidation of the Region I and Region II materials programs, the status of the feline hyperthyroidism policy, the status of National Materials Program pilot projects, materials security issues as they impacted the States, changes in the NMED database and program and the potential impact of NRC's aging workforce (i.e., succession planning). NRC staff also highlighted the proposed changes to two documents that directly affect the IMPEP process: Management Directive 5.6 and STP Procedure SA-116. There was also a discussion of the recent GAO report on the security of radioactive materials, and the status of various proposals in Congress to amend the Atomic Energy Act.

The Program Director indicated that the program prepares monthly metrics and a report of programmatic highlights.

There was one allegation referred to the program by NRC Region I since the last IMPEP. Shortly after the meeting, the Region received feedback from the program to close out the allegation.

The NRC staff indicated that next IMPEP of the New York Agreement State Program is scheduled for FY 2006. No issues were identified by NRC staff to change the scheduling of the next review.



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December 31, 2003

Gene Miskin, Director
Bureau of Radiological Health
New York City Department of Health and Mental Hygiene
2 Lafayette Street, 11th Floor
New York, NY 10007

SUBJECT: PERIODIC MANAGEMENT MEETING SUMMARY

Dear Mr. Miskin:

A periodic meeting with the New York City Department of Health and Mental Hygiene was held on November 14, 2003. The purpose of the meeting was to review and discuss the status of the New York Agreement State program. The NRC was represented by Kevin Hsueh from the NRC's Office of State and Tribal Programs and me. Specific topics and issues of importance discussed at the meeting included the Department's actions taken in response to the IMPEP recommendations.

I have completed and enclosed a general meeting summary, included any specific actions that will be taken as a result of the meeting.

If you feel that our conclusions do not accurately summarize the meeting discussions, or have any additional remarks about the meeting in general, please contact me at (610) 337-5042 or by e-mail at adw@nrc.gov to discuss your concerns.

Thank you for your cooperation.

Sincerely,

Original signed by Duncan White

Duncan White, CHP
Regional State Agreements Officer
Division of Nuclear Materials Safety

cc:

K. Hsueh, STP
R. Bores, RI

G. Miskin
Bureau of Radiological Health

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

DATE OF MEETING: November 14, 2003

ATTENDEES:

Duncan White, RSAO

Kevin Hsueh, ASPO

Gene Miskin, Program Director

Alan Goldberg, Assistant Commissioner

Ken Daniels, Administrative Director - Environmental Sciences and Engineering

Richard Borri, Senior Scientist, Radioactive Materials Section

DISCUSSION:

The proposed status of each of the six recommendations applicable to NYC in Section 5.0 of the 2002 Integrated Materials Performance Evaluation Program (IMPEP) review of New York is summarized below.

1. The review team recommends that NYC, DOL and DEC perform core inspections in a timely manner, and that NYC take appropriate action to improve the tracking mechanisms necessary to evaluate their own timeliness for initial inspections. (Section 3.1.5)

Current Status: The Bureau stated that they are currently up to date with core inspections. Initial inspections are performed within six months of license issuance. The Bureau identified a list of improvements and changes needed for their RAD database. These changes have been discussed with the Department programmers and these fixes have been scheduled for upgrade. Approximately every two to three months, Bureau inspectors check licensee files manually to correlate inspections dates entered in the RAD database. The Radioactive Materials Supervisor performs a quality assurance check of the database on a monthly basis. Bureau and Office management also hold weekly tracking meetings to review the status of materials and machine inspections and productivity issues and goals. One of the monthly report metrics for the Bureau tracks the timeliness of inspections. It is recommended that this item be verified at the next IMPEP review.

2. The review team recommends that NYC and DEC transmit inspection findings to their licensees within thirty days after the close of the inspection. (Section 3.1.5)

Current Status: This item is tracked as a monthly metric and the Bureau reported that inspection results are issued to the licensee on the average of 21 days with a maximum time of 39 days. It is recommended that this item be verified at the next IMPEP review.

3. The review team recommends that NYC review and revise their inspection process, including report preparation to ensure that inspection findings are accurately described in the documentation of the inspection and that cited violations are supported in the inspection field notes. (Section 3.2.5)

Current Status: Periodic meetings are held with inspection staff to emphasize the importance of preparing inspection reports which are consistent with the observations in the field notes. The Bureau has also changed the process for the inspection correspondence. Inspectors are now required to prepare the inspection documentation to the licensee in addition to the inspection field notes. The Senior Radioactive Materials Inspector reviews the correspondence and the field notes to ensure that all violations are cited properly and documented both in the notes and the letter. It is recommended that this item be verified at the next IMPEP review.

4. The review team recommends that NYC review all licenses to ascertain if any require financial assurance, take appropriate actions on each affected license to ensure that all licensees meet codified financial assurance requirements. (Section 3.4.5)

Current Status: The Bureau has identified approximately 10 licensees that will require financial assurance. A draft letter has been prepared and will be issued to these licensees shortly requesting compliance with NYC financial assurance requirements. This recommendation remains open.

5. The review team recommends that NYC, DOL and DOH draft and implement a method to ensure timely submittal of information to NRC and the Nuclear Materials Event Database (NMED) and implementation an effective procedure to identify, track and review all incident reports. (Section 3.5.5)

Current Status: The Bureau indicated that monthly metrics are maintained for incidents and complaints (i.e., allegations). The Bureau indicated that they have had no reportable events so far this year and only three materials events in total, two of which involved accelerator produced materials. Most events reported to the Bureau are related to accelerators and trash calls. NRC staff briefly summarized some of the changes to NMED and recommended that the Bureau periodically review their events from the NMED web site externally to ensure that all information is complete and accurate. The Program Director indicated that future reporting of medical incidents will not include any identifying patient or licensee information consistent with State law and the current State Department of Health practice. It is recommended that this item be verified at the next IMPEP review.

6. The team recommends that each New York Agency (NYC, DOH, DEC, and DOL) develop and implement an action plan to adopt NRC regulations in accordance with the current NRC policy on adequacy and compatibility. (Section 4.1.3)

Current Status: The Bureau has met with the Department's general counsel regarding the adoption of overdue and due NRC amendments with the exception of the Part 35 revision. The Bureau plans to adopt Part 35 in a future rule making in coordination with State Department of Health's adoption of the same NRC amendment. The Bureau is preparing a Certificate of Necessity for issuance in January 2004 with final adoption of the amendments in the summer. Subsequent to the meeting and at the request of the Bureau, the RSAO reviewed their list of NRC amendments for completeness and determined that two amendments were omitted. This information was forwarded to the Bureau. NRC staff reviewed the STP regulations review process and suggested that

the Bureau review the information available on the STP web site and contact STP or the RSAO if they have any questions. This recommendation remains open.

The Bureau has plans to hire three individuals into Radiation Emergency Response positions that are funded through the CDC terrorism grants. The positions are currently posted. NYC management present stated that the City is on the fast track to fill these positions and get the program up and operational. Equipment will also be purchased. These new positions will form a new emergency preparedness (EP) section within the Bureau. There have been no other personnel changes since the last IMPEP review.

There have been no legislative changes affecting the Agreement State program. Besides the creation of the new EP section, there have been no other changes in the Bureau's responsibilities. According to the Program Director, a small cut in budget (2%) this year did not affect the Bureau. Fees generated by the Bureau go directly to the general municipal fund. The amount of fees generated by the Bureau covers their operating costs. The Program Director indicated that the Bureau will look at changing their fees next year.

The Program Director noted that the current Administration is supportive of training staff and anticipates no particular problems in getting the necessary training for the new EP staff members. In particular, the Program Director and the Administrative Director noted that Jeanine Prud'homme, the current Assistant Director for the Office of Environmental Sciences and Engineering, has been very supportive of the Bureau and is committed to its improvement.

The Bureau has some staff members that are eligible or plan to retire in the near future. The Program Director noted that the stressed fiscal situation in the City currently and in the near future will make it difficult to fill vacated positions and for succession planning.

The NRC staff discussed the recent developments regarding the nominations for the two vacant Commission positions. Also discussed was the consolidation of the Region I and Region II materials programs, the status of National Materials Program pilot projects, materials security issues as they impacted the States, changes in the NMED database and program and the potential impact of NRC's aging workforce (i.e., succession planning). NRC staff also highlighted the proposed changes to two documents that directly affect the IMPEP process: Management Directive 5.6 and STP Procedure SA-116. There was also a discussion of the recent GAO report on the security of radioactive materials, and the status of various proposals in Congress to amend the Atomic Energy Act.

There were no allegations referred to NYC by NRC Region I since the last IMPEP.

The NRC staff indicated that next IMPEP of the New York Agreement State Program is scheduled for FY 2006. No issues were identified by NRC staff to change the scheduling of the next review.