

REVISED REGULATORY IMPACT STATEMENT

Amendments to 6 NYCRR Part 380

Prevention and Control of Environmental Pollution by Radioactive Materials

1. STATUTORY AUTHORITY

The New York State Department of Environmental Conservation (DEC) regulates the disposal and release of radioactive material to the environment pursuant to sections 3-0301(1)(i) and 3-0301(2)(a), (m) and Articles 1, 3, 17, 19, 27, 29, and 37 of the Environmental Conservation Law (ECL) and the State of New York's agreement with the United States Nuclear Regulatory Commission (NRC).

New York State Agreement State Program:

The Atomic Energy Act of 1954 (and subsequent amendments) (AEA) created the federal program for controlling the use of most radioactive materials and for limiting the public exposure to radiation resulting from that use. In general, the AEA required that those entities wanting to possess, use, store, or transfer radioactive material produced or used in a nuclear reactor must do so in accordance with a license issued by the Atomic Energy Commission (AEC), the predecessor agency of the NRC. In 1960, the AEA was amended to allow states to enter into agreements with the NRC whereby the authority to license most uses of radioactive material is relinquished to the state. States that enter into such agreements are referred to as Agreement States.

Before an agreement can be signed, the state must certify that it has a program for the control of radiation hazards adequate to protect the public health and safety. The NRC then must review the state's proposed program and find that it is compatible with the federal program and is adequate to protect the public health and safety.

The NRC periodically reviews the radiation control programs of Agreement States to determine whether the programs continue to be adequate to protect the public and whether the state regulations are compatible with the standards set by the NRC. The NRC may terminate or suspend the agreement and reassert federal licensing and regulatory authority in the event that a program fails to meet the NRC requirements. An Agreement State may also withdraw from the program and, therefore, no longer license most uses of radioactive material in that state.

New York State became the fourth Agreement State in the country on October 15, 1962. The State's agreement is implemented by the New York State Department of Health (DOH), the New York City Department of Health and Mental Hygiene (NYCDHMH), and DEC. DOH and NYCDHMH issue radioactive materials licenses to parties to authorize the use and possession of radioactive material. DEC regulates the environmental impacts of radioactive materials.

ECL Articles 1 and 3:

DEC's general authority for rules is found at ECL Articles 1 and 3, which establish the environmental policy of the State and endow DEC with broad powers with respect to the discharge of pollutants into the environment. The ECL section 1-0101(1) declares:

“The quality of our environment is fundamental to our concern for the quality of life. It is hereby declared to be the policy of the State of New York to conserve, improve and protect its natural resources and environment and to prevent, abate, and control water, land and air pollution, in order to enhance the health, safety and welfare of the people of the state and their overall economic and social well being.”

"Pollution" is defined as

“the presence in the environment of conditions and or contaminants in quantities of characteristics which are or may be injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property throughout such areas of the state as shall be affected thereby. [ECL section 1-0303(19)]”

DEC implements this policy through its broad scope of powers in ECL section 3-0301, which lists the general functions, powers, and duties of DEC and the Commissioner, including, in section 3-0301(l)(i), the power to “Provide for prevention and abatement of all hazardous substances, water, land and air pollution including but not limited to that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids.”

There is not a separate Article in the ECL that comprehensively governs the regulation of radioactive materials. Rather, the source of legal authority, in addition to ECL Articles 1 and 3, is divided among the following ECL Articles: Article 17 (Water), Article 19 (Air), Article 27 (Solid Waste), Article 29 (Low-Level Radioactive Waste Facilities), and Article 37 (Substances Hazardous or Acutely Hazardous to Public Health, Safety or the Environment).

ECL Article 17:

ECL section 17-0803 provides that it shall be unlawful to discharge pollutants to the waters of the state from any outlet or point source without a SPDES permit. A pollutant is defined to include radioactive materials (see ECL section 17-0105(17)). This statutory definition establishes DEC's authority to regulate radioactive materials directly under State law and as contemplated by the State's 1962 agreement with the NRC. Discharge

limits and permitting standards are found in Title 6 of the New York Code of Rules and Regulations (6 NYCRR), Part 380.

ECL Article 19:

State law authorizes DEC to prevent and control air pollution is found in Article 19 of the ECL. Section 19-0301 gives DEC the power to promulgate regulations that require permits to construct and certificates to operate for sources of air pollutants. Part 380 implements this requirement for radioactive material emissions. Section 19-0301 authorizes DEC to establish emission limitations for air contamination sources and to promulgate ambient air quality standards. Radioactive materials are considered to be an air contaminant (see ECL section 19-0107), and emission limitations for radionuclides are found in 6 NYCRR Part 380.

ECL Article 27:

Radioactive materials are considered to be a solid waste, as they are not excluded from the definition of solid waste in ECL section 27-0501. 6 NYCRR 380-4.1 prohibits land disposal of radioactive materials except as authorized pursuant to that Part and other applicable DEC regulations.

ECL Article 37:

ECL section 37-0107 states that no person shall store or release to the environment substances hazardous or acutely hazardous to public health, safety or the environment in contravention of rules and regulations promulgated pursuant to Article 37. ECL section 37-0105 authorizes DEC to promulgate rules and regulations pertaining to the storage and release to the environment of substances hazardous or acutely hazardous to public health, safety or the environment. Radioactive materials meet the statutory criteria of

substances hazardous to the public health, safety or the environment in ECL section 37-0103(1)(a), i.e., substances which

(i) because of their quantity, concentration, or physical, chemical or infectious characteristics cause physical injury or illness when improperly treated, stored, transported, disposed of, or otherwise managed; or

(ii) pose a present or potential hazard to the environment when improperly treated, stored, transported, disposed of, or otherwise managed; or

(iii) because of their toxicity or concentration within biological chains, present a demonstrated threat to biological life cycles when released into the environment

and in ECL section 37-0103(2)(c):

substances defined as hazardous substances pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act (26 U.S.C. 4611 et seq.; 42 U.S.C. 9601 et seq.) as of June 1, 1985.

2. LEGISLATIVE OBJECTIVES

a. Overview

Part 380 contributes to meeting the legislative goals of conserving, improving, and protecting the State's natural resources and environment and preventing, abating, and controlling water, land, and air pollution. This is done through several provisions in the rule. Part 380 sets limits on the radiation dose to members of the public due to releases of radioactive material to the environment. It requires parties to obtain permits for most releases of radioactive material made directly to the environment. Radiation exposures in uncontrolled areas in the environment must be kept as low as reasonably achievable. The regulations also restrict the disposal of radioactive material to only those methods approved in the regulations or by DEC in a permit.

The amendments do not change the general requirements for disposal of radioactive material, obtaining permits, or the requirement that exposures be kept as low as reasonably achievable. New provisions that contribute to meeting the legislative goals include applying a constraint on emissions to the air which is lower than the prior limit.

b. Specific Regulatory Provisions

The amendments to Part 380 update several provisions that are required for compatibility with federal regulations, simplify and update language, and add several needed provisions that have been absent from the regulations. Each of these changes is detailed in section 3 below.

3. NEEDS AND BENEFITS

The purpose of Part 380 is to control the release of radioactive material to the environment in order to protect the public health and the environment. The regulations apply to all State-regulated persons (i.e., those not exclusively regulated by NRC) that dispose of or release radioactive material to the environment. Part 380 sets limits on those releases and the potential radiation dose to the public that could result from those releases, and requires persons to evaluate their releases to demonstrate compliance with those limits and to keep records of those evaluations. Part 380 specifies the types of radioactive releases that can only be authorized via a permit. Part 380 also defines the methods of disposal of radioactive material that are allowed in the regulation, and requires DEC approval of alternative methods of disposal. Under Part 380, releases of radioactive material to the environment must be maintained as low as reasonably achievable.

Need for Amendments to 6 NYCRR Part 380:

These amendments are needed both for administrative reasons and technical, scientific, and public policy reasons. The administrative need is the result of New York State's agreement with the NRC: the State is

required to have regulations that are compatible with the federal regulations. Therefore, when 6 NYCRR Part 380 was first adopted (in 1974), it was based on Sections of Title 10, Part 20 of the Code of Federal Regulations (10 CFR Part 20), which are the federal standards for protection against radiation. These amendments are needed to incorporate applicable federal changes to 10 CFR Part 20 that were made from 1991 through 2008. In addition, several corrections and revisions not related to the federal rules would be made; these changes are being adopted to clarify regulatory provisions and fill regulatory gaps that have become apparent to DEC through the implementation of Part 380 since its last major revision in 1994.

Benefits of Adopting Amendments:

The amendments ensure that 6 NYCRR Part 380 is compatible with federal regulations in 10 CFR Part 20 by updating numerous provisions, including definitions relevant to radiation dosimetry and dose limits, notification of incidents, deliberate misconduct, and effluent concentrations. These amendments simplify language, define and incorporate additional commonly used terms of art, and clarify several regulatory provisions. These amendments also add language to more clearly identify the categories of radioactive materials that are not subject to regulation. These clarifications benefit the regulated community whose operations are regulated by Part 380, and strengthen DEC's enforcement capabilities regarding these regulatory provisions by clarifying when radioactive material becomes subject to regulatory control. The amendments expand the universe of waste meeting the "biomedical exemption," which has always applied to the disposal of animal tissue (i.e., carcasses) meeting specific concentration limits; the amendments expand these criteria to also include the bedding used by these animals. This change simplifies waste management practices and eliminates the need to treat animal bedding as radioactive waste when the animal carcasses themselves have been exempt.

Throughout the amendments, the terms “disposal and release” are used, replacing the former term “disposal and discharge.” This change is needed for consistency with federal regulations, as “release” is the term used in 10 CFR 20, and because “discharge” is used in the amendments to Part 380 in the limited context of effluents discharged to ground or surface water.

In subpart 380-1, several changes to the general provisions have been made for the purpose of improving clarity and to fill regulatory gaps. Reference to Article 37 of the ECL will be added, as it had been previously inadvertently omitted. Applicability has been expanded to include the use of licensed radioactive material in the environment (e.g., in environmental studies). Because the use of radioactive material in the environment is not currently specifically identified in regulation as being subject to Part 380, DEC cannot issue Radiation Control Permits for such uses until the amendments are adopted. This subpart has also been expanded to clarify that certain types of radioactive materials are not subject to Part 380, such as household waste containing excreted residues of radiopharmaceuticals and intact smoke detectors. This clarification should help avoid confusion about the disposal of radioactive materials that are not subject to regulatory control. In addition, a paragraph has been added to clarify that sites containing buried radioactive waste are subject to Part 380.

In subpart 380-2, several additions and changes in definitions have been made to maintain compatibility with federal regulations, improve clarity, and incorporate commonly used terms of art.

The definition of “disposal” has been added, as it is not currently defined in Part 380. The definition of “release” has been added, as it replaces the former use of the term “discharge” throughout the regulation. The definition of “discharge” has been revised to apply only to the release of material to ground or surface water (the term currently applies to the release of radioactive material to both air and water). The definition of “emission” has been added, for the release of material to the air. The definition of “effluent” has been added, to mean material released to air or water, as this term appears in the Table of Concentrations in section 380-11.7.

The definition of “effluent treatment” has been added, as it is referenced in section 380-3.4. The process of “incineration” has been defined, instead of the equipment used, and the definition of “incinerator” has been deleted.

The definition of “permit” has been expanded to apply to the use of radioactive material in the environment, and for the maintenance of a former radioactive waste land burial site. The definition of “permittee” has been updated for consistency with language used in other DEC regulations. The definition of “loss of control of radioactive material” has been revised, as the previous definition was limited to licensed radioactive material. The definition of “uncontrolled release” has been added for unplanned releases of radioactive material to the environment, as this term is referenced in 6 NYCRR 380-9.2 and is needed to differentiate from controlled releases of radioactive material to the environment as authorized under Part 380. The definition of “TENORM” has been added to clarify that technologically enhanced naturally occurring radioactive material is the same as processed and concentrated naturally occurring radioactive material, which is regulated radioactive material.

Other definitions have been added or revised as required for compatibility with federal regulations issued by the NRC in 10 CFR Part 20. Definitions for “dose constraint” and “public dose” have been added. Likewise, the definitions for “total effective dose equivalent” and “member of the public” have been revised as required to maintain compatibility with federal rules.

In subpart 380-3, permit requirements have been clarified to identify each type of disposal or release of radioactive material that can only be undertaken as authorized by DEC in a permit. Also, the required content of permit applications has been expanded to establish in regulation the minimum information that must be included in a permit application. These criteria will be used to evaluate the sufficiency of submitted permit applications for many years.

In subpart 380-4, language has been added so that all allowed waste disposal methods for radioactive

materials are referenced in this subpart. In addition, the disposal of specific categories of wastes (the “biomedical exemption”) has been expanded to include animal bedding meeting certain criteria, which supports the longstanding disposal exemption that exists for animal tissue containing small amounts of radioactive material.

In subpart 380-5, a 10 millirem (mrem) constraint on airborne emissions has been added, as required to maintain compatibility with federal rules. This dose constraint has already been implemented by permit condition for several years. Also, the reference to 40 CFR 190 has been deleted, as it had been inappropriately included in Part 380 previously.

In subpart 380-6, annual calibrations are required for instruments used to measure effluent flow rates. This requirement has already been implemented by permit condition for several years.

No significant changes were made to subpart 380-7.

In subpart 380-8, regulated persons are authorized to record quantities of radioactivity in SI units. Also, two new requirements have been added: (1) data maintained in electronic format must be made available to DEC via hardcopy upon request, and (2) records required by Part 380 must be transferred from the old permittee to the new permittee when a permit is transferred. These requirements ensure that (1) inspectors can obtain information and raw data that may only exist on a facility’s computer system, and (2) records relevant to Part 380 compliance are properly transferred when a permit is transferred.

In subpart 380-9, the requirement for a permittee to submit annual reports has been expanded to require reporting of environmental dosimeter results when the acquisition of such data is required by the permit. This requirement has already been implemented by permit condition for several years. Several requirements have changed regarding notification of incidents - - some changes were required to maintain compatibility with federal regulations; other changes were added to lower the reporting thresholds, because the federal rules requiring notification of incidents only involve large radiation exposures. Reports will be required for

uncontrolled releases or events that could cause releases, or for exceedance of any permit or regulatory limit (this requirement has already been implemented by permit condition for several years), or for the exceedance of the dose constraint. The contents of reports and timeframes are specified.

In subpart 380-10, several additions have been made to the general regulatory requirements. The new prohibition of engaging in deliberate misconduct is required for compatibility with federal rules, and prohibits the deliberate submission of inaccurate or incomplete information to DEC, and applies to permittees, applicants and contractors. Also, information submitted to DEC must be complete and accurate, and a prohibition has been added against uncontrolled releases, unauthorized transfers, or abandonment of radioactive material or failure to comply with any requirement in Part 380. These additions strengthen DEC's enforcement capabilities in the event that violations of Part 380 are identified.

In subpart 380-11, two new isotopes have been added to the tables of concentrations: Nitrogen-13 and Oxygen-15. These additions are required to maintain compatibility with the federal rules issued by NRC in 10 CFR Part 20.

4. COSTS

a. Costs to Regulated Parties:

This section describes the regulated parties and the expected effects of the amendments on their costs of operation.

Part 380 applies to all state-regulated persons that use or dispose of radioactive material in quantities and concentrations that are subject to regulation by the licensing agencies of New York State (i.e., DOH and NYCDHMH). Part 380 applies to the approximately 1500 radioactive materials facilities in the State, and any unlicensed person possessing or disposing of radioactive material over which those state agencies exert control. All regulated persons are subject to the requirements in Part 380 to (1) dispose of radioactive material in a

manner authorized in Part 380 or approved by DEC in a permit; (2) obtain a permit from DEC to authorize certain radioactive discharges; (3) evaluate radioactive discharges and maintain records of those evaluations; and (4) notify DEC when radioactive material is released to the environment in quantities or concentrations that could result in public doses above the reporting thresholds in Part 380.

Part 380 does not apply to the U.S. Department of Energy or its contractors, nor to users of radioactive material licensed by the NRC, such as nuclear reactors.

Most of the persons regulated under Part 380 are facilities that are not required to have a permit. DEC estimates that about one third of the 1500 radioactive materials licensees only possess radioactive material in the form of sealed sources, which, if the source is properly used and maintained, is not released to the environment. Other parties not requiring a permit use unsealed radioactive material in a form or manner that, under normal operating conditions, is not released to the environment. Still others release radioactive material to the environment at concentrations or quantities below the permitting thresholds in Part 380.

A small number of regulated persons have Part 380 permits. In 2013 (the most recent year for which permittees reported to DEC on their discharges of radioactive material), there were 27 persons holding one or more Part 380 permits. These included cyclotrons (which produce radionuclides used for medical procedures), radiopharmacies (which distribute radiopharmaceuticals for medical procedures), manufactures (of smoke detectors and radiation detectors), research institutions, hospitals, and universities. Those 27 permittees held a total of 29 permits: one for the incineration of radioactive material, 25 for releases to the air, one for discharges to surface water, and two for the maintenance of former radioactive waste burial sites.

There should be no additional costs to regulated persons due to the requirement to meet the 10 mrem dose constraint on airborne emissions because permittees have already been subject to this requirement via permit condition for several years. There should be no additional costs to regulated persons due to the requirement to report environmental dosimeter results in their annual reports because permittees have already

been subject to this requirement via permit condition for several years. The requirement of a lower threshold for reporting of incidents would result in expenditure of staff time to prepare and submit reports of incidents and follow up actions. In most instances in the past, reports were voluntarily submitted by permittees as good practice.

b. Costs to DEC, State and Local Governments:

DEC will expend resources and staff time preparing to implement the proposed regulatory revisions. Guidelines and explanatory documents distributed to regulated persons must be written. Staff must be trained in the implementation of the revised regulations. This will require several months of staff time.

After the initial preparation and training period, the routine implementation of the amended regulations is not expected to cost more (on a cost per regulated person basis) than the implementation of the current Part 380 program.

In addition to the cost to DEC, the other State agency in the Agreement State program, DOH, will expend some staff time becoming familiar with DEC's amended regulations. This may require one or two days of staff time.

At least two state agencies and one campus of the state university system have been issued Part 380 permits. Their costs as regulated persons are described in section 4.a of this document.

The amendments do not place any requirements directly on local governments, except where local governments operate facilities that possess radioactive material. In that case, the cost to the local government will be the same as that to other regulated persons, described in section 4.a, above. The most likely situation where a local government will be subject to the regulation is a county-owned hospital. In addition, if any public schools were to possess radioactive material in quantities or concentrations that require licensing, they will also be subject to Part 380. Occasionally, high schools obtain radioactive materials licenses. Currently, none of the entities that have been issued Part 380 permits are owned by local governments.

NYCDHMH, as one of the three Agreement State agencies in New York State, will probably expend one or two staff days becoming familiar with the revised Part 380.

5. LOCAL GOVERNMENT MANDATES

The adoption of the amendments do not place any mandates on local governments except for those local governments operating facilities that are regulated parties. In those cases, local governments must meet the requirements placed on all regulated parties. (See section 4, above). Because control of radioactive materials is preempted by the federal government and only relinquished to Agreement States, local governments, other than New York City, have no regulatory jurisdiction over the release or disposal of radioactive materials.

6. PAPERWORK

Several provisions in the amendments require the preparation and submission of additional paperwork. In 6 NYCRR 380-3.2, the amendment clarifies permit requirements and the information that must be included in a permit application. The implementation of lower thresholds for notification of incidents in 6 NYCRR 380-9 requires reports to be submitted for uncontrolled releases or events that could cause releases, exceedance of any permit or regulatory limit, or exceedance of the dose constraint, which require the preparation and submission of the required paperwork should such an event occur. The required submission of annual reports has been expanded to include reporting of environmental dosimeter results from permittees whose permits requires the acquisition of environmental dosimetry data.

7. DUPLICATION

Other State Regulations:

As described in section 1, above, the New York State Agreement State program is divided among three agencies (DOH, NYCDHMH, and DEC). The two agencies other than DEC have the authority to license the possession and use of radioactive materials. It is only when that material is disposed of or released to the environment that it comes under the jurisdiction of DEC. Thus, there is no overlap between the regulatory programs of the licensing agencies and that of DEC.

The three New York agencies must revise their regulations to be compatible with NRC's regulations in 10 CFR. Because the NRC requires Agreement States to adopt these rules essentially verbatim, all three agencies would adopt some of the same dose limits and definitions of terms. This would not create any additional regulatory burdens for the parties subject to those regulations. The two other agencies are also in the process of promulgating rules that are compatible with NRC's regulations.

It must be emphasized that DEC and the two licensing agencies must each promulgate regulations that are adequate to protect the public health and safety and that are compatible with 10 CFR. The potential for duplication is thus reduced because all of the regulations must be consistent with those of the NRC.

Federal Regulations:

Because the amendments to Part 380 must be compatible with 10 CFR, many sections in Part 380 are identical, or very similar, to the federal rules. However, 10 CFR applies to federally-regulated facilities, (such as nuclear reactors) while Part 380 applies to state-regulated facilities (such as hospitals), and thus there is no duplication of regulation. Under the Agreement State program, the NRC relinquishes to the State its authority to regulate those radioactive materials covered by the Agreement.

8. ALTERNATIVES

The alternatives available to DEC in developing the amendments to Part 380 are limited by its role as an Agreement State agency. As explained in section 1, above, an Agreement State's regulations must be compatible with the regulations of the NRC. The NRC defines compatibility by classifying its regulations into four categories, and has identified the compatibility category that applies to each section of its regulations. DEC staff used those assignments as a guide in preparing the amendments to Part 380. Category A rules are those regulations that Agreement States must adopt essentially identical to those of NRC in order to be compatible. These rules establish basic radiation protection standards, related definitions or terms necessary for a common understanding of radiation protection principles. Category B rules are those with significant transboundary implications, and should be essentially identical to those of NRC. Category C rules should be adopted by states to avoid conflicts, duplications, or gaps. The language adopted does not need to be identical, provided that the essential objectives of these rules are met. Category H&S rules are rules that are not required for compatibility; however, they have particular health and safety significance. States should adopt these rules in order to maintain an adequate program. Other rules (Category NRC) are regulations that address matters that are solely the jurisdiction of the NRC, and Agreement States must not adopt them.

Provisions for which Alternatives Could Not Be Considered:

The provisions in 10 CFR that are Category A rules must be adopted by Agreement States essentially verbatim. Therefore, DEC was precluded from considering alternatives to them. The affected provisions are the definitions and the dose limits. Category B rules should be adopted essentially verbatim; there are no category B rules in this rulemaking. Category C rules are to be adopted by states to avoid conflicts, duplications, or gaps, and the manner in which these provisions are addressed must meet the essential objectives of the rules. The affected provisions are the notification of incidents, the constraint rule, and deliberate

misconduct. Category H&S are to be adopted by states in order to maintain an adequate program. The affected provisions are the addition of O-15 and N-13 to the Tables of Concentrations of radionuclides to air and water that resulted from the expanded definition of byproduct material. Thus, DEC did not consider alternatives to the following provisions of the proposed rule.

- 6 NYCRR 380-2 Definitions: dose constraint; public dose;
 member of the public; and total effective dose equivalent
- 6 NYCRR 380-5 Radiation Dose Limits to Individual Members of the Public
 (10 mrem dose constraint)
- 6 NYCRR 380-9 Notification of Incidents
- 6 NYCRR 380-10 Deliberate Misconduct
- 6 NYCRR 380-11 Annual Limits on Intake (ALI) and Derived Air Concentrations
 (DAC) of Radionuclides for Occupational Exposure; Effluent
 Concentrations; Concentrations for Release to Sanitary Sewerage

No-Action Alternative:

For those portions of the amendments that are required by federal rule, taking the no-action alternative would not be consistent with New York State's agreement with the NRC. As an Agreement State, New York has committed to carrying out a radiation control program that is compatible with that of the NRC. Hence, Agreement States must adopt regulations compatible with the revisions in 10 CFR. In addition, if Part 380 is not revised, not only would it be obsolete, but it would be inconsistent with the regulations of the radioactive materials licensing agencies in New York State. Thus, not revising Part 380 for compatibility with federal rules could jeopardize New York's agreement with NRC.

For those changes that were not based on federal rules, taking the no-action alternative would result in not simplifying regulatory language, clarifying regulatory provisions, and filling regulatory gaps which have become apparent through years of implementing the existing Part 380 regulations.

Legislative Initiative:

Since the regulation for DEC's radiation program is based on several components of the ECL, no specific requests have been made by DEC statutory changes. There is not a separate statute that comprehensively governs the regulation of radioactive materials. Rather, the source of legal authority, in addition to ECL Article 1 and 3, appears in the following ECL Articles: Article 17 (Water), Article 19 (Air), and Article 27 (Solid Waste), Article 29 (Low-Level Radioactive Waste) and Article 37 (Substances Hazardous or Acutely Hazardous to Public Health, Safety or the Environment).

Rulemaking Initiative:

Based on other alternatives and in order for DEC to fulfill its agreement with the NRC, amendments to 6 NYCRR Part 380 are required to meet New York's commitment to implement a radiation control program which is compatible with that of the NRC. Thus, Agreement States must adopt regulations compatible with revisions in 10 CFR. Also, there are additional State initiatives that are at least as stringent as 10 CFR that DEC would also incorporate into this revised rulemaking of Part 380.

9. FEDERAL STANDARDS

The amendments are more stringent than federal regulations regarding several requirements for reporting of incidents. The amendments require reporting of uncontrolled releases of radioactive material or

events that could cause releases or the exceedance of any regulatory limits. These provisions are more restrictive than the NRC rules, which require reporting only when dose limits are greatly exceeded; DEC experience has shown that events of that magnitude are exceedingly rare. Lower severity events are more common, but have not been required to be reported. The amendments require lower severity events to be reported; facility compliance with this new requirement enables DEC to promptly become aware of such events, and ensure that prompt and appropriate actions are taken to resolve such events. Failure to notify DEC of such events when required will result in a regulatory violation that could be remedied via an enforcement action, if appropriate or necessary.

10. COMPLIANCE SCHEDULE

6 NYCRR 380-1.5 establishes the transition rules for these amendments. In general, all provisions in the amendments become effective on the effective date of the rule making. The new 10 mrem dose constraint on airborne emission in new subdivision 380-5.1(b) has already been in effect as a Part 380 Radiation Control Permit condition for several years. Permittees have also been required to report environmental dosimetry results in their annual reports and report the exceedance of any permit limit, in accordance with permit conditions, for several years.