

September 17, 2002

Roger L. Suppes, Chief
Bureau of Radiation Protection
Ohio Department of Health
P.O. Box 118
Columbus, OH 43266-0118

Dear Mr. Suppes:

A periodic meeting with Ohio was held on September 5, 2002. The purpose of this meeting was to review and discuss the status of Ohio's Agreement State program. The NRC was represented by Dennis Sollenberger from the NRC's Office of State and Tribal Programs, Marc Dapas from the NRC Region III office, and me.

I have completed and enclosed a general meeting summary, including 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 discussion, or have any additional remarks about the meeting in general, please contact me at (630) 829-9661, or e-mail to JLL2@NRC.GOV to discuss your concerns.

Sincerely,

/RA/
James L. Lynch
State Agreements Officer

Enclosure: As stated

cc w/encl.:
C. O'Claire, Ohio State Liaison Officer
P. Lohaus, STP
D. Sollenberger, STP
M. Dapas, RIII

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AGREEMENT STATE PERIODIC MEETING SUMMARY FOR OHIO

DATE OF MEETING: SEPTEMBER 5, 2002

ATTENDEES:	<u>NRC</u>	<u>STATE</u>
	Marc Dapas James Lynch Dennis Sollenberger	Roger Suppes Marcia Howard Ruth Vandegrift Michael Snee Mark Light

DISCUSSION:

The recommendations in Section 5.0 of the 2001 Ohio final IMPEP report are summarized below followed by a summary of actions in response to the findings.

1. **Recommendation:** The review team recommends that the State develop formal training and qualification requirements for SS&D reviewers. (Section 4.2.2)

Current Status: The State used the draft NRC SS&D qualification journal and developed an equivalent Ohio qualification journal for all staff performing SS&D evaluations. It is recommended that this comment be closed at the next IMPEP review.

2. **Recommendation (for NRC):** The review team recommends that NRC staff revise NRC guidance so that the differences between safety analysis summary documentation for certificates for specifically-licensed versus generally-licensed devices are clarified. (Section 4.2.1)

Current Status: NRC noted the need to address this issue in the next scheduled revision of NUREG-1556, Vol. 3. It is recommended that this comment remain open, pending NRC action.

Radiation Control Program Staffing

A well-trained, experienced staff remains a strength of the Ohio Department of Health (ODH) radiation control program. Three staff members were hired in the materials program since the IMPEP review to replace departing staff. A senior health physicist position, responsible for the development of procedures and quality assurance, is planned for the materials program. An effort is underway to reclassify health physicist staff positions into five levels rather than the current three. This reclassification would allow more promotion potential for staff members.

Training

The radiation control program staff is experienced and well trained. Bureau management stated that they are faced with a severe limitation on out-of-state travel (12 days per person annually). This statewide position requires the program to look more at in-state and in-house training. Participation in NRC-sponsored training courses may be limited in the future.

One of the program supervisors participated on the Oklahoma IMPEP team in July 2002 and plans to be on the Florida IMPEP team in February 2003. ODH management was encouraged to continue to support the IMPEP program to share Ohio expertise and to strengthen staff skills and perspectives.

Inspections

Approximately 175 inspections have been performed to date in 2002. Inspection frequencies are at least as frequent as NRC's. No inspections are overdue.

Licensing

A total of 714 licensing actions were completed in 2002. No significant licensing backlogs exist.

Self Assessments

The value of programmatic self assessments was discussed during the meeting. Currently, ODH managers perform substantial oversight of the program but have not yet embarked on a self assessment effort. NRC encourages States to perform self assessments, which may use the IMPEP tools available on the Office of State and Tribal Programs website.

Regulations

With the Agreement signing in 1999, Ohio adopted NRC regulations via incorporation by reference. Gradually, the references are being replaced by State regulations. In 2001, NRC reviewed and commented on Ohio proposed regulations for radiation protection standards, general licenses, industrial radiography, well logging, transportation and irradiators. The rules are in various stages of adoption.

ODH management was reminded that a finding of compatibility may only be given after review of a final regulation. States are required to submit copies of final regulations to NRC, after resolution of comments. None of the above-mentioned regulations have been submitted to NRC in "final" form. Program management was requested to do so. An updated "State Regulation Status" form is sent to the State with every regulation comment letter and is available on the Office of State and Tribal Programs website at the following URL:
<http://www.hsrdo.org/nrc/special/regs/OHregs.pdf>

A potential problem with a compatibility change to a regulation was raised to ODH and NRC by an Ohio licensee. The transportation regulation, 10 CFR 71.10 "Exemption for low-level materials," had its compatibility, for subitems "b" and "c," changed in 2001 from a Category "B" (essentially identical) to a Category "NRC" (reserved to NRC). The compatibility change prohibits Agreement States from adopting subitems "b" and "c." NRC made the change in

compatibility designation in response to comments from the Department of Transportation on the Suggested State Regulations, Part T. The SA-200 change was included in the February 6, 2001, version of SA-200 which indicated that the exemptions should be properly reserved to NRC.

The Ohio licensee claims that elimination of the exemptions significantly changes how licensees must handle "low-risk shipments" of radioactive materials in that all parts of the regulation apply to all shipments of radioactive material, including "low-risk shipments." The licensee believes that requirements added by the change include having all packaging approved by the State and requiring an approved quality assurance program, as described in 10 CFR 71 subpart H. The Office of State and Tribal programs received an e-mail from the Ohio licensee describing these issues and will evaluate the concern raised by the licensee and respond to them and to ODH.

One of the program supervisors attended the 10 CFR Part 35 training in August at the Region III Office. Ohio is developing medical regulations based on the revised Part 35.

Security

The current security advisories and Interim Compensatory Measures (ICMs) were discussed in detail. ODH management urged the NRC to not ignore contributions from Agreement States in the security of their licensees.

Incidents

ODH staff communicates reportable incidents promptly to the NRC Operations Center and Region III. Ten incidents were reported since the IMPEP review. One of the program supervisors inputs incident information directly into the Nuclear Materials Events Database (NMED) on approximately a monthly basis. A review of NMED identified timely input of incidents. Several of the files needed additional detail for proper closure of the incidents which ODH management indicated would be done promptly.

In June 2002, ODH management provided information to NRC Region III regarding radioactively contaminated biohazardous waste being received routinely at an Ohio incinerator. The contaminated waste was generated at NRC-licensed medical facilities in Pennsylvania and West Virginia. When received at the incinerator the contaminated waste trips detector alarms and needs to be returned to the originating facility. ODH issues DOT exemption permits to allow the waste to be returned and requires the originator to retrieve the material. In June, Region III passed the information to the NRC Region I and II offices, responsible for Pennsylvania and West Virginia licensees, respectively.

ODH management reports that the incineration facility is still receiving contaminated biohazardous waste from many of the same medical institutions in Pennsylvania. Region III will reiterate the concerns to the Region I office to hopefully resolve the problem. This general problem was addressed in NRC Information Notice 91-03 "Management of Wastes Contaminated with Radioactive Materials ("Red Bag" Waste and Ordinary Trash)," dated January 7, 1991.

Allegations

Three allegations were transferred to Ohio from NRC since the last IMPEP review. The allegations involved: improper control of radioactive material by a consultant; exposure to high radiation levels near nuclear gauges; and an unauthorized physician. ODH staff investigated the allegations and took prompt, appropriate actions in all cases. Investigation results were provided to the RSAO.

Licensee Updates

Information on current NRC activities in Ohio was shared with ODH staff. Updates were provided regarding Earthline Technologies (RMI Environmental Services) enforcement, TRW site closure, and Battelle Memorial Institute-West Jefferson decontamination.

Sealed Sources and Devices

ODH staff received SS&D training from Illinois Department of Nuclear Safety staff. The training was very beneficial to SS&D staff.

In response to a recommendation from the IMPEP review, program management standardized training qualifications for SS&D staff. ODH developed an SS&D qualification journal based on the NRC SS&D qualification journal and it is being used for reviewers. The journals are currently up-to-date for all staff performing SS&D reviews.

The recent New York IMPEP review identified that a radioactive device manufacturing and distribution operation had moved from New York to Ohio. The device registry sheet for one of the company's devices, in the Sealed Source and Device Registry, needs updating. ODH management indicated that the manufacturer had submitted a proposed Registry update sheet to them. The sheet is currently undergoing review by ODH SS&D staff.

CONCLUSIONS:

The Ohio Radiation Control Program appears to be a strong, stable Agreement State program. Staff has remained consistent for several years and the training level for staff members is good.

ODH will consider the use of self assessments to evaluate and improve the radiation control program.

ODH will update NMED incident files for proper closure.

NRC will contact the Region I office responsible for licensees sending contaminated material to an Ohio incineration facility.

ODH will submit "final" versions of regulations to NRC for compatibility review for those regulations adopted since the Agreement.

During the 2001 MRB meeting, it was recommended that the next IMPEP review be scheduled in four years. Those present at this meeting agreed to schedule the review as planned, in FY 2005.