

Michigan and the U.S. Nuclear Regulatory Commission Agreement State Program
Agreement State Advisory Committee (ASAC)
Library of Michigan - Lake Superior Room
October 2, 2008

MEETING SUMMARY

1. Introductions

Thor Strong, Chief of the Radiological Protection Section, Department of Environmental Quality (DEQ), welcomed the participants and had the participants introduce themselves.

He noted that the focus of this meeting was to discuss the draft Part A, "General Provisions," and the draft Part D, "Standards for Protection Against Radiation," that we had sent to the committee members for their review.

2. Update on Agreement State Efforts

Pennsylvania became an Agreement State on March 31, 2008. Virginia plans to become an Agreement State in March 2009. New Jersey hopes to become an Agreement State in September 2009. After these states become Agreement States, Michigan will contain about 25% of the U.S. Nuclear Regulatory Commission (NRC) licensees in non-agreement states (540 Michigan versus 2,169 total - September 2007 data).

The statutory revisions needed to become an Agreement State and to provide for interim fees to fund the transition to an Agreement State have not moved outside the Department of Community Health (DCH) due to the governor's commitment to "no new fees" in her January 2008 State-of-the State speech. A proposal to use carryover funds from the x-ray program to partially fund the transition was mentioned. However, there was no appropriation in the DCH budget for fiscal year 2009 authorizing the use of these fees for the agreement state program.

3. General Approach to Rules Revision

A description of the State Office of Administrative Hearings and Rules (SOAHR) process for the promulgation of administrative rules was presented at the last ASAC meeting and is available on the SOAHR website at www.michigan.gov/soahr or by request.

Michigan's draft rules follow the format of the Conference of Radiation Control Program Directors' "Suggested State Regulations" (SSRs). The SSRs are compared with NRC regulations and corresponding rules of other Agreement States. Boxes under a draft rule provide rationale for the proposed change and indicate where a new requirement goes beyond the scope of the NRC regulation.

The Michigan Legislative Services Bureau has "A Manual of Style and Procedures" to be used when drafting administrative rules. We have modified the wording of the draft rules to meet the requirements in this manual and other "plain language in government" principles.

4. Discussion of Draft Rules

Staff and committee members discussed each rule. Some significant discussions centered on the following rules:

Part A, "General Provisions"

- Rule A.1, "Scope," on appropriate wording to state that persons who have a source of radiation but have not registered or obtained a license are still required to comply with the act and the rules.
- Rule A.8, "Violations," about the merits of specifying "misdemeanor" or "felony" in place of the generic "crime" for a person who willfully violates the act, rules, orders, etc.
- Note that no definitions were included for discussion. A set of definitions will be compiled for the rules at a later time.

Part D, "Standards for Protection Against Radiation"

- Rules D.1001, "Purpose," and D.1002, "Scope," appear inconsistent. 10 CFR 20.1001 and 20.1002 use similar language.
- Rule D.1004, "Implementation," should have a 5-year deadline after the effective date of the rules that requires licensees and registrants to amend their licenses and registrations to comply with the rules.
- Rule D.1101, "Radiation Protection Programs," on how extensive a program a registrant (x-ray user) would need, how the program would be documented, and how the program would be inspected.
- Rule D.1201, "Occupational Dose Limits for Adults," for the appropriate dose to report for an individual wearing a protective apron during fluoroscopy and complications when the individual receives a radiation dose performing other x-ray or nuclear medicine procedures.
- Rule D.1301, "Dose Limits for Individual Members of the Public," regarding the NRC exemption procedure to allow caregivers to receive more than 5 but less than 20 millisieverts (500 to 2,000 millirem). The NRC Regulatory Issue Summary 2006-18, "Requesting Exemption From the Public Dose Limits for Certain Caregivers of Hospital Patients," August 31, 2006, is available on the NRC ADAMS website as Accession Number ML061940204.
- Rule D.1501, "Surveys and Monitoring - General," about requiring National Voluntary Laboratory Accreditation Program (NVLAP) accreditation for extremity dosimeters.
- Rule D.1501, "Surveys and Monitoring - General," regarding the licensee's or registrant's ability to take adequate precautions to ensure that individual monitoring devices do not receive a deceptive exposure.

- Rule D.1502, “Conditions Requiring Individual Monitoring of External and Internal Occupational Dose,” raised a discussion whether dosimetry should be required to be issued to all persons who perform, even once, a procedure for which dosimetry is specifically required or should a facility be allowed to use dose-based criteria.
- Rule D.1502, “Conditions Requiring Individual Monitoring of External and Internal Occupational Dose,” about the correct description of the dose to a declared pregnant woman due to occupational intake of radioactive material.
- Rules D.1701 to D.1705, “Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas,” and Appendix A, “Assigned Protection Factors for Respirators may be able to be replaced by adopting the OSHA/MIOSHA standards by reference.
- Rule D.1801, “Security and Control of Sources of Radiation,” should have similar requirements to 10 CFR 20.1801 and 20.1802. A short discussion on restricted, controlled, and unrestricted areas ensued.

5. General Comments and Next Steps

- Staff will draft a Meeting Summary.
- Staff will consider the comments received during today’s discussion and prepare new drafts of Parts A and D. These drafts will be sent to the committee and put on the Agreement State website (www.michigan.gov/agreementstate) for general comment. A notice will be e-mailed to those on the x-ray e-mail listserv and to those on the RAM e-mail list.
- After the Meeting Summary and redraft of Parts A and D are completed, staff plans to send state registrants a letter containing an Agreement State status report, the progress made in revising the rules including reference to the website, and a reminder of the change in regulatory authority that will happen with the termination of the waiver for accelerator produced radioactive materials and for radium occurring in August 2009.
- We will forward the remainder of Part D and Part B, “Registration of Radiation Machine Facilities [and Services]” for discussion at the next meeting.

ATTENDEES:

COMMITTEE MEMBERS:

Cheryl Culver Schultz, Beaumont Hospitals
 John Merrill, Consumers Energy
 Neil Stubbs, Covidien (was Tyco International)
 James Weldy, The Dow Chemical Company
 Alan Jackson, Henry Ford Health Systems
 James Botti, Medical Physics Consultants
 Thomas Kumpuris, Medical Physics Consultants
 Thomas Killingsworth, MI Department of Transportation
 Ray Carlson, Radiological Physics Services

Ralph Lieto, St. Joseph Mercy Health
Dennis Palmieri, University of Michigan
Mark Driscoll, University of Michigan
Brad Kraai, X-Ray Industries, Inc.

STAFF:

Bruce Matkovich, DCH
Don Parry, DCH
John Ferris, DCH
Darryl Horton, DCH
Thor Strong, DEQ
Robert Skowronek, DEQ
T.R. Wentworth, DEQ