



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Flanigan Square, 547 River Street, Troy, New York 12180-2216

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

To: Lohaus, STP

cys: EDO
DEDMRS
DEDR
DEDM
AO
R1

December 18, 2002

Carl J. Paperiello
Deputy Executive Director
for Materials, Research and State Programs
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Paperiello,

This is in response to the Nuclear Regulatory Commission's (NRC) Integrated Performance Evaluation Program (IMPEP) report on the New York State Agreement State, received November 19, 2002. In your letter you asked for a response to the report's recommendation. Attached please find the New York State Department of Health response to the recommendations that apply to our agency.

If you have any questions or need additional information, please contact Stephen Gavitt or me at: (518) 402-7550.

Sincerely,

Adela Salame-Alfie
Adela Salame-Alfie, Director
Bureau of Environmental Radiation
Protection

Enclosures

cc: Steve Gavitt

Template: EDO-001

E-RIDS: EDO-01

NYS Department of Health Comments on NRC IMPEP Report

RECOMMENDATIONS

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

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 Events Database and implement an effective procedure to identify, track, and review all incident reports. (Section 3.5.5)

Response

The Department is revising its policy and procedures for responding to radioactive materials events to ensure there is a prompt and complete review of events, especially those with the potential for significant health and safety consequences. The results of any investigations as well as information collected will be documented utilizing a standard format to ensure sufficient information is obtained and appropriate decisions are made on each event.

Specifically the following items will be included in the revised procedures:

- Events will be assigned a unique tracking number and entered into a log;
- Bureau supervisors will promptly evaluate initial event information. Supervisors will determine, and document, appropriate action;
- Supervisors will assign a technical staff who will be responsible to implement the actions, i.e., conduct an on-site investigation and/or gather sufficient information as necessary to fully evaluate the event. The assigned technical staff will be responsible for recording relevant information, investigation reports, etc;
- The current investigation checklist will be evaluated and revised if necessary, to ensure that all essential and necessary information is obtained on each event and investigations have adequately addressed appropriate health and safety concerns.
- All event reports will be evaluated and signed off by a supervisor (similar to inspection reports) as a means to ensure thoroughness and as a means to formally close-out an event;
- Periodic summary reports will be generated to ensure events have been investigated in a timely manner. Staff with outstanding events or incomplete documentation will be notified by their supervisor;
- The events log will either be linked to the radioactive materials licensing database, which is accessible to all RAM inspectors and/or documentation will be placed in each license file, to

77

ensure that event information is available to inspectors for review prior to conducting routine license inspections;

- Events that meet regulatory reporting requirements, as well as those that have trans-boundary implications, and those with significant health and safety implications will be highlighted to ensure timely dissemination of event information to the NRC, other jurisdictions, manufacturers and/or vendors as appropriate.

Such event information will be submitted to the NRC Operations Center by fax or e-mail, and will be followed or preceded by a phone call to ensure that the information was received or is to be expected. *(Please note: we will ensure that event information is reported to NRC Operations Center, however we are not responsible for ensuring that this information is properly logged in the NRC's NMED database.)*

Recommendation

The review 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).

Response

As indicated in Section 4.1, the Bureau has identified NRC regulations needed for compatibility and drafted proposed regulations for internal Department review. These regulations have been placed on the regulatory agenda and will be put forth for adoption in 2003. See attached Department Regulatory Agenda for 2003. Additional regulations, such as the new 10CFR Part 35 are being evaluated with assistance from the Department's Radiological Health Advisory Committee. Proposed amendments will be drafted for Department review in the third quarter of 2003. In this way, it is expected that adoption of these regulations will be within the three year timeframe from NRC's adoption of the final rule.

REGULATORY AGENDA

Center for Environmental Health

The following rules are under consideration for submission as a Notice of Proposed Rulemaking during the calendar year 2002:

10NYCRR	DESCRIPTION OF THE RULE SUBJECT MATTER
5-1	<p><u>Public Water Systems</u></p> <p>Establish a specific maximum contaminant level for propylene glycol in drinking water.</p> <p>Michael Burke, Director, Bureau of Public Water Supply Protection, Room 400, Flanigan Square, Troy, NY, 518/402-7650</p>
5-1	<p><u>Public Water Systems</u></p> <p>Establish a specific maximum contaminant level for propylene glycol and MTBE in drinking water.</p> <p>Michael Burke, Director, Bureau of Public Water Supply Protection, Room 400, Flanigan Square, Troy, NY, 518/402-7650</p>
5-1	<p><u>Public Water Systems</u></p> <p>Amendments to sections 5-1.1, 5-1.52 (table 13), 5-1.77 and 5-1.78 to incorporate mandatory federal regulations pertaining to required public notification by public water systems following code violations or public health hazards.</p> <p>Michael Burke, Director, Bureau of Public Water Supply Protection, Room 400, Flanigan Square, Troy, NY, 518/402-7650</p>
5-1	<p><u>Public Water Systems</u></p> <p>Amendments to section 5-1.52 to incorporate mandatory federal regulations revising the MCLs and monitoring frequencies for radium 226 and 228, gross alpha, beta and photon radioactivity and uranium.</p> <p>Michael Burke, Director, Bureau of Public Water Supply Protection, Room 400, Flanigan Square, Troy, NY, 518/402-7650</p>

10NYCRR	DESCRIPTION OF THE RULE SUBJECT MATTER
5-1	<p><u>Public Water Systems</u></p> <p>Amendments to various sections of 5-1 to incorporate mandatory federal regulations related to treatment performance standards and MCLs pertaining to surface water sources (IESWTR), disinfection by-product formations (THMs, HAAs)(DBP) and limitations on filter backwash recycling.</p> <p>Michael Burke, Director, Bureau of Public Water Supply Protection, Room 400, Flanigan Square, Troy, NY, 518/402-7650</p>
5-1	<p><u>Public Water Systems</u></p> <p>Amendments to various sections of 5-1 to incorporate mandatory federal regulations revising monitoring, reporting and other requirements for certain public water systems related to control of lead and copper in public water systems.</p> <p>Michael Burke, Director, Bureau of Public Water Supply Protection, Room 400, Flanigan Square, Troy, NY, 518/402-7650</p>
5-1	<p><u>Public Water Systems</u></p> <p>Revisions to various sections of 5-1 to incorporate mandatory federal regulations revising the maximum contaminant level for Arsenic and requirements for new source contaminant monitoring.</p> <p>Michael Burke, Director, Bureau of Public Water Supply Protection, Room 400, Flanigan Square, Troy, NY, 518/402-7650</p>
5-1	<p><u>Public Water Systems</u></p> <p>Amendments to various sections of Subpart 5-1 to incorporate mandatory federal regulations revising the provisions applicable to variances and exemptions from drinking water regulations.</p> <p><u>Michael Burke, Director, Bureau of Public Water Supply Protection, Room 400, Flanigan Square, Troy, NY, 518/402-7650</u></p>

10NYGRR	DESCRIPTION OF THE RULE SUBJECT MATTER
5-6	<p><u>Bottled and Bulk Water Standards</u></p> <p>Modify to be consistent with FDA standards.</p> <p>Michael Burke, Director, Bureau of Public Water Supply Protection, Room 400, Flanigan Square, Troy, NY, 518/402-7650</p>
6-1	<p><u>Swimming Pools</u></p> <p>Update pool design standards reflecting new technologies and processes.</p> <p>Richard Svenson, Director, Bureau of Community Sanitation and Food Protection, Room 515, Flanigan Square, Troy, NY, 518/402-7600</p>
7-2	<p><u>Children's Camp</u></p> <p>Amend to include recommendations made by the State Camp Safety Advisory Council for non-swimming entry of water, water supply standards for non-public water systems, standards for camp trip swimming and on-site activities. Additionally, obsolete wording and standards are updated and clarified to reflect current uses and laws.</p>
7-5	<p><u>Agricultural Fairgrounds</u></p> <p>New Subpart which establishes regulatory oversight for agricultural fairgrounds including requirements for permitting, construction, operation and maintenance of the agricultural fairground infrastructure.</p> <p>Richard Svenson, Director, Bureau of Community Sanitation and Food Protection, Room 515, Flanigan Square, Troy, NY, 518/402-7600</p>
8	<p><u>Nuisances</u></p> <p>Modify to address current needs/concerns of local health departments.</p> <p>Richard Svenson, Director, Bureau of Community Sanitation and Food Protection, Room 515, Flanigan Square, Troy, NY, 518/402-7600</p>

10NYGRR	DESCRIPTION OF THE RULE SUBJECT MATTER
14-1, 14-2, 14-4, 14-5	<p><u>Food Protection</u></p> <p>Modify requirements and create a more user-friendly document; exempt certain operators; and rescind certain provisions.</p> <p>Richard Svenson, Director, Bureau of Community Sanitation and Food Protection, Room 515, Flanigan Square, Troy, NY, 518/402-7600</p>
16	<p><u>Radiation Equipment</u></p> <p>Revise §16.22, which covers x-ray screening programs, to eliminate obsolete language and conflicts with the Federal Mammography Quality Standards Act, and to require information showing the efficacy of the proposed screening program prior to department approval; add basic requirements for dental x-ray quality control to §16.23.</p> <p>Adela Salame-Alfie, Ph.D., Director, Bureau of Environmental Radiation Protection, Room 530, Flanigan Square, Troy, NY, 518/402-7550.</p>

10NYCRR	DESCRIPTION OF THE RULE SUBJECT MATTER
16	<p><u>Radiation Therapy</u></p> <p>Reduce the required frequency for external audits from annual to biennial (§16.24). Change the requirements to eliminate reports of certain misadministrations, i.e. fractional doses (§16.25). Revise reporting requirements to be consistent with NYPORTS. Clarify and amend the tasks that can be performed by certified nuclear medicine technologists (§16.123).</p> <p>Adela Salame-Alfie, Ph.D., Director, Bureau of Environmental Radiation Protection, Room 530, Flanigan Square, Troy, NY, 518/402-7550</p>
16	<p><u>Compatibility/Updates</u></p> <p>Add/amend requirements for timeliness in decommissioning, reporting, transportation, deliberate misconduct, waste disposal, definitions, and human research to be compatible with federal Regulations and replace outdated requirement.</p> <p>Adela Salame-Alfie, Ph.D., Director, Bureau of Environmental Radiation Protection, Room 530, Flanigan Square, Troy, NY, 518/402-7550</p>
53	<p><u>Revisions to State Revolving Fund Scoring Criteria</u></p> <p>Revise existing regulations to amend the scoring criteria to 1.) Accommodate priority ranking of residential housing served by private wells into agreement with criteria for existing water supply systems and 2.) promote projects intended to improve PWS security against terrorism/vandalism.</p> <p>Michael E. Burke, Director, Bureau of Public Water Supply Protection, Room 400, Flanigan Square, Troy, NY, 518/402-7650</p>

10NYCRR	DESCRIPTION OF THE RULE SUBJECT MATTER
70	<p><u>Management of Regulated Medical Waste</u></p> <p>Revise to comply with Chapter 438 of the Laws of 1993 as they pertain to the definition of regulated medical waste. The proposed revisions would reduce the number of categories of regulated medical waste from ten to six, remove IV bags and bottles from items considered as regulated medical waste, and allow for properly treated medical waste to be disposed of as solid waste.</p> <p>George Estel, Director, Training and Certification, Bureau of Occupational Health, Room 230, Flanigan Square, Troy, NY, 518/402-7940</p>
Appendix 75-A	<p><u>Wastewater Treatment Standards – Individual Household Systems</u></p> <p>Revise/update design standards to address clarifications and new technology.</p> <p>Richard Svenson, Director, Bureau of Community Sanitation and Food Protection, Room 515, Flanigan Square, Troy, NY, 518/402-7600</p>
Appendix 75-C	<p><u>Individual Water Supplies</u></p> <p>Rescind Appendix 5-B and create regulation in response to legislative mandate to reflect specific standards for well water quality, construction, location, and development.</p> <p>Richard Svenson, Director, Bureau of Community Sanitation and Food Protection, Room 515, Flanigan Square, Troy, NY, 518/402-7600</p>
89	<p><u>Practice of X-Ray Technology</u></p> <p>Changes to eliminate obsolete language concerning the need for wall card identification (§89.25), temporary permits (§89.27) and school accrediting programs (§89.1).</p> <p>Adela Salame-Alfie, Ph.D., Director, Bureau of Environmental Radiation Protection, Room 530, Flanigan Square, Troy, NY, 518/402-7550</p>