

Handwritten: koch's Ohio file R29

JUL 1 - 1998

Roger L. Suppes

If you have any questions regarding the comments or any of the NRC regulations used in the review, please contact me or Mr. Richard Blanton of my staff at (301) 415-2322, or by Internet at RLB@NRC.GOV.

Sincerely,

/S/ Patricia Larkins

Handwritten initials: PL
Paul H. Lohaus, Deputy Director
Office of State Programs

Enclosure:
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 1, 1998

Mr. Roger L. Suppes, Chief
Bureau of Radiation Protection
Ohio Department of Health
35 East Chestnut Street
Columbus, OH 43215

Dear Mr. Suppes:

As requested, we have reviewed the proposed amendments to Ohio rule 3701-39-021 as approved by the Ohio Radiation Advisory Council on April 17, 1998. The rule was reviewed for the inclusion of the following NRC regulations adopted since June 9, 1997, that must be addressed by the Agreement States: "Licenses for Industrial Radiography and Radiation Safety and Requirements for Industrial Radiography Operations" (Amendments to 10 CFR Parts 30, 34, 71, and 150, effective June 27, 1997 (62 FR 28947)), "Radiological Criteria for License Termination" (Amendments to 10 CFR Parts 20, 30, 40, and 70, effective August 20, 1997 (62 FR 39057)), and "Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea" (Amendments to 10 CFR Parts 30 and 32, effective January 2, 1998 (62 FR 63634)). We also reviewed the proposed amendments to the Ohio rule on reciprocal recognition of licenses in 3701-39-021(J) against the provisions of 10 CFR 150.20.

As a result of our review, we have two comments, as enclosed. Please note that our review has been limited to regulations required for compatibility and/or health and safety. Under our current procedure, a finding that a State regulation meets the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final State regulation. However, we have determined that if your proposed regulations (except as noted below) were adopted incorporating the comments and without other significant change, they would meet the compatibility and health and safety categories established in OSP Internal Procedure B.7.

Ohio proposed rule 3701-39-021(L) excludes the provisions of the equivalent NRC regulation for terminating licenses under restricted conditions, and does not adopt the amended definition of the term "decommissioning." The effect of these differences on the compatibility of an Agreement State program has not been evaluated. It will be necessary to seek guidance of the Commission regarding whether the differences between the Ohio and NRC programs preclude a finding of compatibility. This is discussed more fully in our letter dated June 18, 1998, on major issues affecting the Ohio request for an Agreement.

We request that when the proposed regulations are adopted and published as final regulations, a copy of the "as published" regulations be provided to us for review. As requested in our All Agreement States Letter SP-96-027, "Request to Highlight Changes to Agreement State Regulations Submitted to NRC for Compatibility Review" (March 1, 1996), please highlight the final changes and send one copy in a computer readable format, if possible.

Roger L. Suppes

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If you have any questions regarding the comments or any of the NRC regulations used in the review, please contact me or Mr. Richard Blanton of my staff at (301) 415-2322, or by Internet at RLB@NRC.GOV.

Sincerely,



Paul H. Lohaus, Deputy Director
Office of State Programs

Enclosure:
As stated

**COMMENTS ON PROPOSED AMENDMENTS TO OHIO RULE 3701-39-021
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES**

<u>Category</u>	<u>State Regulation</u>	<u>NRC Regulation</u>	<u>NRC-Approved SSR (if any)</u>	<u>Subject and Comment</u>
NRC	3701-39-021(J)	150.20(c)	-	<p>Reciprocity in off-shore areas.</p> <p>The text of the second sentence starting with the word "except" should be deleted.</p>
C	3701-39-021(L)	10 CFR Part 20 Subpart E		<p>Radiological Criteria for License Termination.</p> <p>Ohio proposed rule 3701-39-021(L) excludes the provisions of the equivalent NRC regulation for terminating licenses under restricted conditions, and does not adopt the amended definition of the term "decommissioning." The effect of these differences on the compatibility of an Agreement State program has not been evaluated. It will be necessary to seek guidance of the Commission regarding whether the differences between the Ohio and NRC programs preclude a finding of compatibility.</p> <p>This is discussed more fully in our letter dated June 18, 1998, on major issues affecting the Ohio request for an Agreement.</p>