

**DRAFT Minutes of the Radiation Protection Advisory Committee (RPAC) Meeting**  
**14<sup>th</sup> Floor Conference Room**  
**Rachel Carson State Office Building, Harrisburg, PA**  
**October 19, 2017**

**Call to order – 9:03 a.m.**

**Members in Attendance:**

John Keklak, Chair  
Eric Boeldt  
Kent Lambert  
Shawn McNeely  
Paul Houle  
Janice Wirth  
Vincent Roding

Margaret Blackwood, Vice-Chair  
Michael Sheetz  
Anthony Montagnese  
Lee Ann Murray  
Joseph Och  
Marian Wolford

**Members Absent:**

Steven King  
Victor Rizzo

Peter Smith  
Tiffany Whitcomb

**DEP Staff in Attendance:**

David Allard  
Joseph Melnic  
Kristina Hoffman  
Dyran Altenburg  
Neil Bakshi

Lisa Funk  
John Chipppo  
Bob Lewis  
Keith Salador

**Guests in Attendance:**

Kendall Berry  
Karen Colucci  
Marjorie Sawyer

William Moloney  
Cheryl Rickley  
Karen Wheeler

**Introduction; Adoption of Agenda; Approval of Minutes:**

Introductions of members, guests and staff were made. The agenda for this meeting and minutes from the April 6, 2017, meeting were approved unanimously.

Meeting dates for 2018 were selected: March 22, 2018 and October 18, 2018

**Open Floor:**

Mr. Keklak announced that the next meeting of the Delaware Valley Society for Radiation Safety, a Chapter of the Health Physics Society, is scheduled for November 8, 2017, at Peppers Italian Restaurant in King of Prussia. A Frank Costello Recognition and Award Presentation will be presented to Frank's wife and family.

### **Department of Environmental Protection (DEP) Policy Update:**

Neil Bakshi, Executive Policy Specialist, presented a PowerPoint informing the members that over the past few months, the Policy Office worked with an internal group of DEP staff to revise the Policy for Development and Review of Regulations, Policy for Development and Publication of Technical Guidance, and Advisory Committee Guidelines.

Originally developed in the 1990s, these policies provide an overview of how DEP implements the Commonwealth's regulatory review process; DEP's Technical Guidance Document (TGD) development process; and the function of its advisory committees, boards and councils, respectively.

The Policy for Development and Review of Regulations illustrates the avenues an individual can take to engage with DEP during the regulatory process. Additional clarity was added to specify why and how DEP carries out its regulatory obligations under the Regulatory Review Act.

The Advisory Committee Guidelines reflect the integration of technology in advisory meetings, providing additional flexibility and transparency to the public and stakeholders. The policy will help provide consistency regarding expectations for DEP staff, committee members, and the public for all meetings.

The Policy for Development and Publication of Technical Guidance improves readability, outlines DEP's key considerations for the development of TGDs, and provides direction to individuals interested in providing or reviewing comments submitted to DEP during a public comment period.

The purpose in revising these documents is to modernize the policies, evaluate ways to enhance the public's understanding of DEP's processes that solicit public feedback, and make changes based on recommendations provided by the Citizens Advisory Council.

An open comment period is the first step in enhancing public engagement with DEP. In addition to these policy updates, DEP plans to update other policies, including the Environmental Justice Public Participation Policy and Public Participation in the Development of Regulations and Technical Guidance in the coming months. Updates to DEP's website are also planned to make information about providing feedback to DEP readily available.

### **RP Program Update:**

Mr. Allard announced the Conference of Radiation Control Program Directors (CRCPD), along with the Health Physics Society, has issued a resolution celebrating National Radiation Protection Professionals Week, November 5 – 11, 2017.

The new radioactive materials (RAM) and radon fees will be published in the *PA Bulletin* and effective on October 21, 2017. The RAM October invoices, with a due date of December 31, will reflect the new fees. Even with the increase in fees, on average, the Department is still about 25% lower than the current NRC fees, which are increased annually. Of the approximately 600 Department licensees, 70% fall under two categories: portable gauge operators and medical human use. With these two license types, the Department fee is 45% and 49% lower than the current NRC fee, respectively. As for radon fees, mitigators should start tabulating all systems activated starting October 21 for the new radon mitigation system fee.

DEP incorporates by reference most Title 10 CFR regulations regarding radioactive materials. The bureau recently received notification from the NRC that certain portions of the federal regulations that can only be implemented by the NRC were incorporated by reference by DEP in error. To address this concern, DEP plans to seek approval to develop a “final-omit” rulemaking that will include the sections identified by NRC in the lists of federal regulations in these chapters that are not incorporated by reference. Because this revision is a correction and will not impact licensees, the omission of proposed rulemaking and public comment opportunity via a “final-omit” rulemaking is being sought for expediency. RPAC endorsed this approach.

The CRCPD will soon release an update to Suggested State Regulations (SSR) Part S addressing financial assurance arrangements in support of decontamination, decommissioning, reclamation, restoration, disposal and any other activity required by the agency for costs associated with licensed facilities. In the future, DEP will develop a proposed rulemaking addressing financial assurance.

Decommissioning/Environmental Surveillance – The Safety Light (old US Radium) site is in the final stages of decommissioning. The Shallow Land Disposal Area (SLDA) site in western Pennsylvania, which is an NRC-licensed facility, may need to rebid the clean-up efforts.

Nuclear Safety – The last fee analysis indicated there is no need for a fee increase for PA’s nuclear power plants. Three Mile Island continues to consider shutting down by 2019 if the PA Legislature does not offer some type of tax incentive.

Radon – January is Radon Action Month. DEP will be broadcasting public service announcements throughout the month. The Radon Division continues to test the high radon area in Lehigh County.

**RT Licensure:**

Representative Bryan Cutler was present at DEP’s invitation to discuss his proposed state licensure bill for medical imaging technologists. Mr. Allard recused himself from the discussion explaining he may have a conflict of interest due to his wife being an officer with the Pennsylvania Society of Radiologic Technologists (PSRT).

Rep. Cutler noted that he started his career as a radiologic technologist (RT) working for Lancaster General Hospital. From there he went to law school and now is in his sixth term in the General Assembly. He was compelled to introduce this RT bill because of an incident he heard about that occurred in Florida where a physician performing a fluoroscopic procedure on a child for six hours resulted in the death of the child. The PSRT reached out to him to encourage state licensure. Mr. Melnic noted that he and Lisa Funk met with the PSRT a month earlier to hear their intention for licensure and to point out that DEP’s proposed regulations would require all RTs to be certified with the American Registry of Radiologic Technologists (ARRT), which would be the same requirement necessary for licensure. Several RPAC members expressed that the proposed licensure would not result in any additional safety requirements to prevent an incident like the one in Florida from reoccurring. Most Pennsylvania hospitals already provide extensive training for their fluoro physicians. The major concern is with the small “doc-in-the-box” facilities, such as pain management centers or other small medical facilities. Dr. Chambers noted that the NCRP issued a report focusing on the importance of quality fluoro operations. He sees most physicians following the recommendations of the report. Ms. Blackwood noted that some vascular surgeons don’t get enough technical operation training, and others agreed that training for physicians is necessary.

The proposed licensure bill does not address these concerns. Having all RTs certified by ARRT resolves the issue of training for operators, whereas having an additional layer of bureaucracy does not seem beneficial. Another concern was the cost for RT licensure. Rep. Cutler stated that cost has not yet been determined, and the PA Department of State, which would be the responsible agency, has not been approached for input. The Representative did note that this bill proposal is still in the early stages of review, and he appreciated and thanked everyone for their input.

**Secretary McDonnell Introduction:**

Secretary McDonnell joined the meeting to greet and thank the members for their participation on the advisory committee. He noted the importance of member involvement in assisting the Department with drafting rules and regulations and advising the Department on implementation of specific programs. He spoke of the updates to the Department's regulatory and technical guidance and advisory committee guidelines and encouraged participation during the public comment opportunity. John Keklak expressed concerns regarding staffing issues, especially considering that the RP program is self-funded. The Secretary pointed out that several vacant positions were recently posted. He also pointed out that the Governor is concerned with some groups being inconsistent with other groups. He wishes to eliminate the "haves" from the "have nots" and, instead, treat all programs consistently.

**Dose Monitoring Requirements:**

Dose monitoring is required if the potential of reaching 10% of the annual radiation worker dose can be achieved. Records of dose monitoring do NOT need to be posted; however, the records should be available for review during inspections. The Notice to Employees document references Chapter 219 (incorporating 10 CFR Part 20) and notes that the employer must advise the worker annually of their exposure, and the worker may request a written report of radiation exposure when they leave employment. A committee member asked who is responsible for providing monitoring. DEP responded that it is the registrant or licensee of the source. For students, the responsibility would be with the school or training institution.

**Department of Health (DOH) Proposed Regulations:**

DOH had invited Joe Melnic and Keith Salador to review and comment on DOH's proposed Chapter 190 regulations. DOH was receptive to all of DEP's suggestions, including not putting a timeframe on releasing monitoring records of personnel "within 30 days" because is not reasonable or necessary. DEP will continue to cooperate with DOH throughout their rulemaking process.

Mr. Salador also suggested language that should be added to the regulations that would help resolve conflicts with authority over radiation protection matters. He recommended an addition to the DOH regulations as follows:

"A person who the Department of Environmental Protection has deemed to have violated the Radiation Protection Act, 35 P.S. §§ 7110.101-7110.703, the rules and regulations promulgated thereunder at 25 Pa. Code Article V (relating to radiological health), or a license, registration, or other authorization issued thereunder, shall be deemed to have violated their health care facility license."

Including this provision would allow DOH to exclude specific language that addresses radiation or radioactive materials. All requirements under the Radiation Protection Act would be tied in as

requirements of DOH's licenses, giving DOH enforcement authority that it needs without creating redundant regulatory language and inspections.

**Radiation Control:**

The Department issued a new Fact Sheet addressing non-medical whole-body scanners. These devices are being used at Commonwealth and County prisons. The scanner is used for detecting contraband; however, because radiation is being administered to humans without a medical need, the procedure requires Department approval prior to use. The Fact Sheet addresses all requirements the Department expects the registrant to do to obtain the necessary approval.

The Bureau issued an Information Notice to RAM licensees and Radon Certificate holders that the new fees will be published in the *Pennsylvania Bulletin* on October 21, 2017.

**Review of Medical Reportable Events (MRE) and Nuclear Material Event Database (NMED):**

John Chippo provided a verbal summary of seven NMED events and will provide written summaries of these events to the Committee separately. Lisa Funk noted there were no MREs submitted for this period.

**Comments/Responses Regarding the Proposed Radiological Health Regulations:**

Several sections were revised due to comments received during the public comment period. Comments from the Radon chapter were discussed first.

- Some exemptions from certification were made in the regulations. One example is for performing scientific research as long as the person performing the research informed the owner or occupant of the affected building that 1) the person is not certified by DEP to test or mitigate against radon contamination; 2) the test results are not certified; and 3) that the mitigation methods are for experimental purposes and may be unsuccessful. Another exemption was made for school testing performed by a school employee in the performance of his or her official duties. The Department was concerned that any additional burden placed on school districts may hinder any future radon testing in schools. The Department believes that school staff could follow the current EPA Radon Testing in Schools protocol and perform quality measurements. The school district can always hire a certified radon tester to perform all school testing if they so desire.
- The change at proposed rulemaking that limited firms to one certified individual was amended to revert to existing language of "at least" one certified individual per firm.
- Previously the proposed regulation required the firm employee to take an exam, which would require training to pass the exam. The Department is now allowing on-the-job training by a certified individual without an exam.
- There were concerns with span of control in the proposed requirements that limited a firm to five employees. This requirement was removed in favor of submission of written assurance of ability to retain span of control.
- Reference to blind studies, and an explanation of what they are, has been added in the final rulemaking. The use of blind studies is current practice now being codified.

- The definition for ALARA has been removed from § 240.3 and a clearer standard of compliance has been added to § 240.305.
- The mitigation standards were changed to allow an optional 45-degree output pipe instead of a cap on the pipe.
- A fan cannot be placed in an egress window of the basement.
- Cracks in the basement do not have to be sealed but should be discussed with the homeowner.
- The regulations are using the EPA protocols for the mitigation standards and the incorporated ANSI standards. The EPA school document will be retained.
- Regulations will now allow the use of pre-established control chart limits. A committee member asked what will happen if the protocol documents are revised. Response: The Changes have not occurred in the last 25 years. If they are updated, however, DEP can revise the regulations accordingly to address the new standards.
- A committee member asked why the Department not worried about the quality of the tests being conducted in schools by not having to have a certified tester conduct the tests. Response: The exception for certification and allowing only training was added to encourage schools and local government to test their public buildings for radon without adding more of a burden to them. They are permitted to have a certified tester to do this if they so choose. Some RPAC members commented that the regulations are not clear and it looks to be inconsistent. Can DEP require them to use an approved testing device? Response: DEP is following a 1993 EPA document, titled “Radon Testing in Schools,” which recommends schools be tested by individuals employed by the schools with proper training.

Following the Chapter 240 discussion, comments addressing the other Article V chapters were reviewed and revised sections were discussed.

§ 215.41 – The title was changed to “Contact Information” and the Bureau’s telephone number and DEP website were added.

§ 217.143 – In this section and throughout Article V, for consistency the traditional units will be used first followed by SI units in parentheses.

§ 219.3(i) – Based on the comments and discussions, peak skin dose will change to 1500 rad (15 Gy). The reporting requirement has been changed from 3 Gy to 15 Gy.

§ 220.2(c) – The DEP form number for the Notice to Employees document was revised due to a document reference error.

§ 221.11(b)(1) – “...including...” was changed to “...which may include certification or registration in the applicable specialty by a professional organization...”

§ 221.16 – The Department will require operators to have a CT specialty, such as ARRT(R)(CT), for high-risk procedures such as brain perfusion.

§ 221.35a(c)(1) – This section was reworded for clarity. However, further discussion was suggested among designated RPAC members. [Editor’s note: The section was subsequently reworded and approved via email correspondence between the designated members.]

§ 221.35a(d)(4) – “...all of the following...” was revised to “...other...”

§ 221.57 – The section number was changed to § 221.50 (relating to facilities using CR or DR) for proper placement in the chapter.

§ 221.64(a) – A “QE” (qualified expert) was added for evaluating radiation measurements associated with CBCT. Previously only a QMP could perform or direct CBCT evaluations. Both terms are defined.

§ 221.64(a)(2) – Twelve months was changed to 14 months for consistency with other sections of the rulemaking.

§ 221.64(c) – Section changed to “CBCT systems are exempt from the requirement in § 221.202(a) (relating to equipment requirements).”

§ 221.201 – The definition for CTDI<sub>w</sub> was corrected.

§ 223.31(d) – Persons will be permitted within the room during radiographic exposures, but not within 2 meters of the device.

Following discussion, the RPAC voted unanimously to endorse all revisions and move the Radiological Health package forward to the EQB as final rulemaking.

**Open Floor** – No additional topics were discussed.

**Adjournment – 2:24 p.m.**