



OHIO DEPARTMENT OF HEALTH

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Bob Taft / Governor

J. Nick Baird, M.D. / Director of Health

MAY 01 2006

Rules Docket Clerk
Office of the General Counsel
Federal Emergency Management Agency
500 C Street, SW., Room 840,
Washington, DC 20472.

Re: Docket Number DHS-2004-0029 and Z-RIN 1660-ZA02

Dear Sirs:

This letter is Ohio's response to the Federal Register, Volume 71, No. 1, Notice titled: *Protective Action Guides for Radiological Dispersal Device (RDD) and Improvised Nuclear Device (IND) Incidents* dated January 3, 2006. This notice implements draft guidance for interim use and urges comments regarding the new protective action guides.

The need to protect the citizens of the State of Ohio from any terror related attack is not taken lightly. Our state emergency response planning supports our efforts to protect Ohio citizens. Included in this effort was Ohio's adoption of existing EPA and FDA protective action guides as interim guidance, stemming from our experiences in the commercial nuclear power plant accident preparedness program.

What Ohio needs most is federal guidance to support our assertions, particularly guidance that justifies our protective action levels used in all phases of a radiological terrorism emergency. Further, Ohio needs assistance in developing long-term recovery plans. Therefore, we fully support DHS's actions to adopt current protective action guides, and to develop further guidance and planning for recovery. We look forward to including this new guidance in all of our emergency planning documents related to radiological or nuclear terrorism.

Our principal comments on the federal protective action guides (PAGs) for RDDs and INDs rest in four areas: (1) the intended use of the protective guidelines, (2) the recovery phase decision making authority, (3) the disposal of contaminated property and other material, and (4) the potential for unnecessary exposure to the public on return to contaminated areas. Our discussion follows:

1. The guidance states in (a) (1) the intended audience is principally Federal Government emergency planners and officials. While this may be the intended focus, we believe that a good majority of this guidance will be used for State and local planning and response, where the PAGs will be initially employed to protect the public and emergency responders. Thereafter, the guidance will be used by the State to protect the public in the intermediate phase to minimize ingestion pathways. If these PAGs are not identifiable for emergency phase use by State and local officials, it could prove detrimental to their implementation in an emergency, and may make it difficult to get political decision makers to agree to and implement the guidelines in any protective recommendations.

2. The guidance suggests the development of four teams for recovery phase planning and decision making, which include the final decision makers in a Decision Team. We welcome the development of a restoration and recovery process. However, the composition of the Decision Team and the decision making authority that is taken away from state officials is problematic without direct involvement by the radiation control agency. Chapter 3748 of the Ohio Revised Code designates the Department of Health as the radiation control agency. Rules promulgated in support of that statute address the disposition of radioactive materials and release of radioactively contaminated areas. Thus, an authorized representative of this agency needs to be a member of this team.
3. The guidance under Appendix 4 (f) (4) suggests waste from the incident may contain small amounts of radioactivity, which, if contaminated below the relocation PAG, may be disposed in normal landfills. Ohio has a specific statute prohibiting low level radioactive waste disposal without a specific license to do so, as well as administrative rules for control of radioactive waste and site decontamination; therefore, the PAGs pose additional problems in complying with these requirements. Ohio would need additional guidance and information on benchmarks that are to be used in deciding what level of radioactively contaminated material may be disposed, and additional decision making authority would have to be considered in order to ensure compliance with statutory and regulatory requirements during the emergency and recovery period. Further, disposal of material that is individually below the relocation PAG does not take into account the accumulation of the material, or potential for greater hazards such as alpha emitters.
4. The guidance under Appendix 4 (b) and (f) suggests the public would be allowed to remain in or return to areas below the PAGs, specifically 2 rems in the first year and 0.5 rem / year in subsequent years. However, in determining the total exposure to the public upon return, an effort must be taken to include their potential exposure to contaminated materials that remained in the area and were not disposed. Additionally, there is concern over repetitive exposure of the public in many subsequent years which may not have been considered in risk analysis and are inconsistent with the concept of As Low As Reasonable Achievable (ALARA).

In summary, Ohio believes that the guidance must recognize that the ultimate intended purpose is for its use by emergency responders and state officials in protecting the public and first responders, and its use for control of ingestion pathways. Thus, the guidance should be supportive of the state response plan in this regard. We must also make sure that consideration of concerns of unnecessary public lifetime radiation exposure from all sources are taken into consideration, and that the disposal of radioactive materials is controlled and retrievable.

I appreciate your consideration of Ohio's comments in development of these new protective action guides for response to and recovery from a radiological or nuclear terror attack.

Sincerely,



J. Nick Baird, M.D.
Director of Health

cc: Nancy Dragani, Executive Director, Ohio Emergency Management Agency
Robert Owen, Chief, Bureau of Radiation Protection, ODH