UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

FCML:PCV

MAR 21 1985

Cadema Medical Products, Inc.
ATTN: President
569 North Street
Middletown, NY 10940

Gentlemen:

In the course of the Nuclear Regulatory Commission (NRC) staff's review of two recent licensing actions, we have learned that you manufacture and distribute reagent kits used to prepare technetium-99m labeled antimony trisulfide colloid for lymphoscintigraphy. We also understand that Cadema Medical Products, Inc., is the sponsor of a "Notice of Claimed Investigational Exemption for a New Drug" (IND) that has been accepted by the Food and Drug Administration (FDA) in order to establish the safety and effectiveness of this product. Although we do not object to NRC licensees participating in IND studies such as Cadema's, we have recently discovered that use of the Cadema reagent kit by some NRC licensees may not be in compliance with NRC regulations.

The regulatory problem is as follows. Many physicians and hospitals hold specific licenses of limited scope that are issued by NRC pursuant to Sections 35.14 and 35.100 of 10 CFR Part 35, copy enclosed. These licensees are called "group medical licensees." Note that Section 35.100 groups together certain clinical procedures in a manner such that, whether a licensee wants to do one or many of the procedures in a given group, the licensee needs personnel with similar training and experience, similar facilities and equipment, and similar radiation safety procedures in order to conduct the clinical procedures safely. You should note there is a provision in each of the groupings of radiopharmaceuticals that permits the licensee to participate in IND studies. See paragraph 35.100(c)(5) that covers IND studies involving reagent kits.

"Group medical licensees" must comply with the requirements of Section 35.14. Note that radiopharmaceuticals, generators, reagent kits, and sealed sources used by "group medical licensees" are required by paragraphs 35.14(b)(1), (2), and (3), to have been manufactured, labeled, packaged, and distributed in accordance with a specific license issued either (1) by NRC pursuant to Section 32.72, 32.73 or 32.74, as appropriate, of 10 CFR Part 32 or (2) by an Agreement State pursuant to equivalent State regulations. See especially paragraph 35.14(b)(2)(i) that pertains to reagent kits such as Cadema's. A copy of 10 CFR Part 32 is enclosed for your convenience.

An Agreement State is any State with which NRC or, previously, the Atomic Energy Commission has entered into an effective agreement under Subsection 274b of the Atomic Energy Act of 1954, as amended. In essence, each Agreement State conducts a licensing and inspection and enforcement program in its State for non-federal, academic, medical, and industrial organizations located within that State. Enclosure 2 lists the Agreement States as well as the name, address and telephone number of the responsible official within each Agreement State.

Because Cadema does not have a document issued by NRC pursuant to Section 32.73 of 10 CFR Part 32 nor a similar document issued by the Agreement State of New York, each NRC "group medical licensee" who uses a reagent kit from Cadema is in noncompliance with paragraph 35.14(b)(2)(i) of 10 CFR Part 35. From our discussion with NRC staff who administer the State Agreements program, we understand that the State of New York does not have a provision in its regulations that is comparable to Section 32.73 of 10 CFR Part 32 for reagent kits that do not contain byproduct material and whose manufacturers are not also licensees. Thus, you cannot obtain the needed document from the State of New York until New York regulations are amended, an action that may take some time to complete. To overcome this regulatory problem, we suggest that you implement one of the two solutions described below.

SOLUTION I

Submit an application to NRC requesting authorization to distribute to NRC's "group medical licensees" reagent kits that will be used to prepare byproduct material, i.e., technetium-99m labeled antimony trisulfide colloid for lymphoscintigraphy. Enclosure 3 is a recently published guide for the preparation of applications of this type. See especially pages 1-8, 16-18, and 25. Be sure to submit your completed, signed application, in duplicate, accompanied by the fee required by paragraph 170.31(3D) of 10 CFR Part 170, copy enclosed. Address your application to NRC's Region I Office in King of Prussia, Pennsylvania. It would be most helpful if you would include, with your application, a copy of this letter so that the Region I licensing staff is aware of your problem and our proposed solution.

Note that, under ordinary circumstances, the NRC staff would advise a non-federal organization in an Agreement State to file an application with the State. However, in your case, the New York State regulations have no provisions comparable to that found in Section 32.73 of 10 CFR Part 32 for reagent kit manufacturers that are not also licensees; this is so because the reagent kits do not contain any byproduct material at the time of manufacture but will contain byproduct material at a later date. If you obtain an NRC document issued pursuant to Section 32.73 and if at some later date New York amends its regulations to include a provision comparable to Section 32.73, then we would expect you to terminate the NRC-issued document and to obtain a similar document issued by New York. The advantages of Solution I are that it solves the regulatory problem for both NRC's "group medical licensees" and those licensees in Agreement States who are similarly licensed and it minimizes the paper work, total cost, and inconvenience to you, your customers, NRC staff, and Agreement State staff.

SOLUTION II

Determine which participants in your IND studies are "group medical licensees." Explain the regulatory problem to them and suggest that each "group medical licensee" submit to NRC a request to amend its license. The request, which must be accompanied by the appropriate fee (see paragraph 170.31(7) of 10 CFR Part 170), should specify that the licensee is participating in a Cadema-sponsored IND study of antimony trisulfide colloid reagent kit and requests relief from the requirements of paragraph 35.14(b)(2)(i) to allow the licensee to use reagent kits obtained from Cadema Medical Products, Inc., Middletown, New York. If any reagent kit other than the antimony trisulfide colloid kit is being used, the licensee should specify the other kits to be used.

Many of the Agreement States have a "group medical licensing" system similar to NRC's with requirements similar to those in paragraph 35.14(b)(2)(i) of 10 CFR Part 35. Participants in your IND studies that are located in Agreement States may need to request similar licensing action from the appropriate Agreement States.

We do not believe that Solution II offers any advantages over Solution I.

As a side light, you may wish to submit formal comments on the draft guide included as Enclosure 3 to this letter. The front cover of the draft guide specifies to whom comments should be sent. In your comments you may wish to address the special problem faced by your company.

If you have any questions on these matters, please contact us at (301)427-4232.

Sincerely,

Patricia C. Vacca

Patricia C. Vacca
Material Licensing Branch
Division of Fuel Cycle and
Material Safety

Enclosures:
1. 10 CFR Parts 32, 35, and 170
2. Agreement State List
3. Guide for the Preparation of Applications for Licenses and Approvals to Authorize Distribution of Various Items to Group Medical Licensees (Task FC 406-4) dtd February 1985

BETWEEN: William O. Miller, Chief
License Fee Management Branch
Office of Administration

John E. Glenn, Chief
Nuclear Materials Section B
Division of Engineering and
Technical Programs

LICENSE FEE TRANSMITTAL

A. REGION I

1. APPLICATION ATTACHED

Applicant/Licensee: Cadema Medical Products, Inc.

Application Dated: 4/15/85

Control No.: 03754

License No.: New

2. FEE ATTACHED

Amount: $700.00

Check No.: 613 3D

3. COMMENTS

Signed Brenda Platchak

Date 5/3/85

B. LICENSE FEE MANAGEMENT BRANCH

1. Fee Category and Amount: 3D ~~3A~~ $700

2. Correct Fee Paid. Application may be processed for:

Amendment _____

Renewal _____

License ✓

Signed Frances Brown

Date 5/15/85

5/17/85

REGION I FORM 213
(MARCH 1983)