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BEN N. SALTZMAN, M.D.
DIRECTOR

March 11, 1985

Donald A. Nussbaumer
Assistant Director for State Agreements Program
Office of State Programs
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Mr. Nussbaumer:

In a notice to all Agreement States dated January 14, 1985, which included a copy of the proposed revision to 10 CFR 35, there were some comments listing areas of concern for Agreement States over the proposed revision. The purpose of this letter is to reinforce those concerns from the perspective of the Arkansas Radiation Control Programs.

First, there does seem to be a problem with allowing the degree of freedom to change operating procedures granted to licensees under the proposed 10 CFR 35. Particularly in smaller hospitals where a nuclear medicine physician may be working at several facilities, the licensee is very limited in the amount of expertise available to evaluate changes in procedures. It has been our experience in Arkansas, which specifically ties licensees to a set of procedures in the License, that many procedures submitted in amendment request have to be altered to conform to the Department requirements. Under the proposed Part 35, these discrepancies would go unnoticed until the next inspection.

During the inspections, each procedure of the nuclear medicine department would need to be reviewed to either verify that no changes were made or to evaluate the changes. Even if there is no record indicating procedural changes had been made, the inspector would still need to spend an inordinate amount of time verifying that. If procedures are changed, the inspector will be required to evaluate those changes, according to the regulations. Under the current licensing practice, when a procedure submitted is questionable, the license reviewer has the opportunity to consult references available in the office, including other Licenses, and to confer with others. In this manner, consistency in licensing is maintained between licensees. Also, the reviewer is able to concentrate on the procedure and can benefit from others' interpretation. During an inspection, reviewing procedures is sometimes done in rather cramped quarters amid the activity of the nuclear medicine department.


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The third point raised in the January 14, 1985, notice is also a valid concern. Since Arkansas borders on two non-Agreement states, there is a good deal of concern that licensees, particularly those near the Missouri and Oklahoma borders, and medical societies will begin to exert pressure to change the method of licensure in Arkansas. Although this would not be a matter of compatibility, licensees expect consistency in regulation across state borders. Several instances have already arisen in Arkansas where our own regulations had to be explained or clarified because of minor differences from NRC policy.

The proposed revision to Part 35, if implemented, would have an impact on Agreement State programs as well as the NRC licensees. These comments were intended to reinforce some of the major areas of concern with the revision.

Sincerely,


E. F. Wilson, Director
Division of Radiation Control and Emergency Management Programs

EFW:MAS:plb