

August 15, 2000

Mr. Charles H. Rose
Executive Director
American Association of Nuclear Cardiology, Inc.
5660 Airport Boulevard, Suite 101
Boulder, Colorado 80301

Dear Mr. Rose:

I am replying to your June 20, 2000, letter related to compliance in cases where the radiation safety regulations of Federal, State, and local agencies may differ or conflict. You asked us to confirm that if a regulation of one agency is more stringent than another, a licensee should comply with both. We agree that complying with one agency's requirements does not necessarily assure compliance with another agency's regulations, and in general we expect licensees to comply with Nuclear Regulatory Commission requirements, regardless of whether applicable requirements of other agencies may differ. Please note that, while governmental agencies may have different or more stringent requirements than other agencies, this does not necessarily constitute a conflict. A conflict would exist if it is not possible to comply with both regulations. If this should seem to occur, the specific issues should be brought to the attention of the regulatory agencies. The case presented in your letter is a good example of a difference which is not a regulatory conflict. A licensee could comply with both dose limits.

Your letter presents a specific hypothetical case involving state and federal law on permissible levels of radiation. In an "Agreement State" in which the Commission has "discontinued" its regulatory jurisdiction over certain classes of radioactive materials, the State's regulation must be "compatible" with the Commission's program for regulation of such materials. The Commission determines (in consultation with the Agreement States) which aspects of the Commission's regulatory program constitute a matter of Agreement State "compatibility." Such a determination also involves the level of Agreement State "uniformity" to the Commission's program that is required to serve the particular compatibility interests at stake. In a conflict between state and federal law occurring in a non-Agreement State and involving Atomic Energy Act material, the state law conflicting with federal law could be "preempted" by the federal law, meaning that the federal law would take precedence over state law.

I hope this information is responsive to your request.

Sincerely,

/RAI

John W. Hickey, Chief
Material Safety and Inspection Branch
Division of Industrial and Medical Nuclear Safety
Office of Nuclear Material Safety and Safeguards

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