



MISSISSIPPI STATE DEPARTMENT OF HEALTH

November 29, 2001

Paul H. Lohaus, Director
Office of State and Tribal Programs
U.S. Nuclear Regulatory Commission
Mail Stop 0-3-C10
Washington, D.C. 20555-0001

Dear Mr. Lohaus:

Having reviewed Mr. Frederick Combs' letter dated November 16, 2001, I must express my concerns with NRC comments on the compatibility of the Mississippi Regulations adopted July 11, 2001.

My first concern is that the letter was received nine months after my request for review of the proposed regulations, and four months after the regulations were adopted by the Mississippi Board of Health. Normally, the delay in the letter would not have been a problem, if all the comments had been reasonable and discussed prior to the adoption of the regulations. The first two comments, addressing the "Transportation of Radioactive Materials," were discussed on March 22, 2001, and therefore, were incorporated in the revised regulations. However, the comments pertaining to "Industrial Radiography" were not discussed on March 22, 2001, or during the IMPEP review during the week of May 21, 2001. These comments were first brought to our attention in Mr. Combs' letter.

My second concern is that wording used in those specific sections of the Industrial Radiography regulations is identical to the 1998 Revision of Part E of the Suggested States Regulations for Control of Radiation (SSRCR), which according to your letter dated December 4, 1998, met the compatibility, health and safety categories established in DSP Internal Procedure B.7.

My third concern is the specific comments to Sections 801.E.5(h) and 801.E.15(c) of the Mississippi Regulations. The comment in reference to 801.E.5(h) states that this section is missing the qualifications of the person that performs the testing in contrast to the person who analyzes the leak tests. If this is referring to the person collecting the leak test, it is usually the radiographer or the RSO, who collects the sample and their qualifications are already required in other sections of the regulations. In Section 801.E.15(c) the comment states that the need for collimator needs to be removed to meet compatibility. Section 801.E.15 of the Mississippi Regulations is identical to the 10 CFR 34.41, with the exception that Mississippi, following the SSRCR, added the requirement

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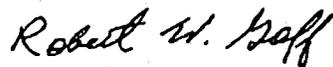
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for a collimator to be used during radiographic operations. This additional requirement does not conflict nor change the requirements of 10 CFR 34.41. The requirement for the use of a collimator addresses a health and safety issue, which is not currently addressed in the NRC regulations and is consistent with the ALARA Principle. It appears that revisions to the NRC regulations are needed to address this health and safety issue.

I find it ironic that NRC is requesting that meaningless words are added to one section and yet requesting that a health and safety requirement be deleted from another section of the regulations for compatibility. In the text of this letter, certain words have been underlined that should be considered in the development of regulations, as well as, NRC reviews of Agreement States' regulations for compatibility. The regulations must be reasonable, and should not have redundant or meaningless requirements, but most importantly, must address health and safety issues. I can add meaningless words to the regulations, but under no circumstances will I remove a health and safety requirement for compatibility.

I'm looking forward to discussing this issue further with you and your staff.

Sincerely,



Robert W. Goff, Director
Mississippi State Department of Health
Division of Radiological Health

RWG:tsm

pc: Frederick Combs
Richard Woodruff