

**PRM-35-20
(71FR64168)**

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

January 16, 2007

Annette L. Vietti-Cook
Secretary
Attn: Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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Re: PRM-35-20

Dear Ms. Vietti-Cook:

Thank you for the opportunity to comment on the petition for rulemaking filed by E. Russell Ritenour, Ph.D., on behalf of the American Association of Medical Physicists as published in the Federal Register Vol. 71 No. 211 on November 1, 2006. Mr. Ritenour's petition seeks to restore the recognition of diplomates of certifying boards that were previously recognized in 10 CFR Part 35 prior to October 25, 2005.

As a diplomate of the American Board of Health Physics, I support this petition for rulemaking; and urge the Commission to amend its regulations as stated in paragraph 4.2 of the petition to "recognize individuals that were certified by a board that was listed in Subpart J of the of the old regulations for . . . §§ 35.50 (RSO) . . . prior to October 24, 2005."

Although the petition specifically focuses on the American Board of Radiology and the American Board of Medical Physics in its discussion of this portion of the proposed rule change, the proposed change presented to the Commission, is more general. As such it includes recognition of individuals certified by the American Board of Health Physics (ABHP) as meeting the training and education (T&E) requirements to be an RSO on a medical license.

The current regulations require that individuals certified prior to October 25, 2005 by the ABHP be forced to use the alternate pathway. I have, however, seen no evidence that support the assertion implicit in the current regulations that individuals certified prior to 2005 are any less capable of performing as RSO. Therefore, these additional steps pose a burden upon individuals and licensees without a corresponding increase in public or worker health and safety.

I believe that my certification by the ABHP establishes my credentials as a radiation safety professional. The ABHP comprehensive certification exam is devoted to radiation safety and training and has included medical applications since its inception. Therefore, I believe that individuals considered qualified to be RSO prior to October 25, 2005 by virtue of their board certification should continue to be considered qualified to hold this position.

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In addition, the National Council on Radiation Protection and the New York State Education Department recognize the CHP certification as a qualified expert and as meeting the requirements for licensed medical physicist, respectively.

In conclusion, as a certified health physicist, I believe that my certification by the ABHP establishes that I have the requisite training and education to serve as an RSO at a medical institution. I encourage the Commission to favorably consider the petition for rulemaking and modify 10 CFR 35 to recognize the certifications of those individuals who met the Part 35 training and experience requirements for RSO as of October 25, 2005.

Sincerely,

Gary H. Baker, CHP

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To: <SECY@nrc.gov>
Date: Tue, Jan 16, 2007 12:38 PM
Subject: PRM-35-20

Please accept the attached petition comments. The regulation forces CHPs and other certified professionals previously recognized by the NRC to demonstrate their qualifications as RSOs under 10 CFR 35, and to follow alternative and unnecessary paperwork pathways to re-document their qualifications as RSOs. This is happening, due to no real change in the qualifications of the individuals, but due to changes in the regulations which removed the specifically named boards from the regulations, and instead have them listed on an NRC website. During this process of rule change, the NRC effectively negated the recognition of these boards on the effective date of the regulation if they were not listed on the NRC website. Individuals identified as RSOs prior to April 29, 2005 were unaffected by this rule change. This regulatory change adds unneeded requirements with no commensurate improvement in public health.

Thankyou. Gary Baker

(See attached file: NRCPetitionCommentGarybaker.rtf)

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