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

Ref: SA/KNS

W. Grady Stumbo, M.D., Secretary
Department for Human Resources
Commonwealth of Kentucky
Frankfort, Kentucky 40601

Dear Dr. Stumbo:

This is to confirm the discussion Mrs. Schneider and Mr. McGrath held with Mr. Austin, Mr. Bell and members of the Department's staff during our recent review and evaluation of the Kentucky radiation control program. The review covered the principal administrative and technical aspects of the program. This included an examination of the program's funding and personnel resources; licensing, inspection and enforcement activities; field evaluation of State inspectors; emergency response capabilities for agreement materials and the status of the State's radiation control regulations.

As a result of our review of the State's program and the routine exchange of information between the Nuclear Regulatory Commission and the State of Kentucky, the staff believes that the Kentucky program for regulation of agreement material is adequate to protect the public health and safety and compatible with the NRC program for regulation of similar materials.

During the review, we were informed by the staff that Kentucky's current inspection priority system consists of inspection of all licensees who have never been inspected. While such a goal as this is commendable, it has resulted in licensees who have greater potential for affecting public health and safety not being inspected at an appropriate frequency. During our review of the compliance files, we noted that Kentucky's five broad licensees have not been inspected since 1976. We recommend that these licensees be scheduled for inspection as soon as possible. In NRC's newly revised "Guide for Evaluation of Agreement State Radiation Control Programs" the status of the State's inspection program is considered a Category I indicator. Deficiencies in such program areas are considered highly significant. The directive to inspect all licenses that had not previously been inspected replaced a priority system that had been based on the potential hazards of the licensed operations. We suggest that such a system be reinstated. At a minimum, the inspection frequency should be consistent with the NRC system, a copy of which was provided to your staff during our meeting.

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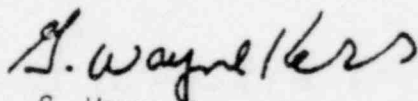
With the present inspection program and with implementation of a priority system as discussed above, the staffing level for the agreement materials program needs to be carefully monitored. At present, Kentucky's staffing levels were found to be slightly below the NRC suggested level. In discussions with Mr. Babb, he stated he plans to train and use the x-ray field staff for inspections of some of the simpler agreement material licenses. The ability of these persons should be carefully evaluated prior to performing independent materials inspections. This effort should aid, however, in accomplishing the inspection goals and increasing the level of staff effort devoted to the program.

A license issued to L. S. Gierlach, M.D., in April, 1979, authorizing diagnostic and therapy procedures in his private practice was reviewed. The incident and inspection file, which was also reviewed, documented the steps that the State took in June 1979 in regard to a contamination problem at the licensee's office, the order issued and subsequently termination of the license. The response of the staff to the incident was considered adequate and appropriate. However, during the renewal process major changes were requested by the physician and the State did not perform a review of the application commensurate with the major changes requested. Had a detailed review of the license application been performed, we feel that the incident might have been prevented. It is important that the routine procedures used in reviewing licenses be carried out with all licensees to ensure the protection of the public health and safety.

I am enclosing for your information a copy of a letter to Mr. Babb with comments regarding the technical aspects of the program. I am also enclosing a second copy of each letter which should be placed in a State Public Document Room or otherwise made available for public inspection.

I appreciate the courtesy and cooperation extended to Mr. McGrath and Mrs. Schneider during the meeting with your staff. I would appreciate your review of these suggestions and would like to receive your comments on them.

Sincerely,



G. Wayne Kerr, Acting Director
Office of State Programs

Enclosures:
As stated

cc: ✓ NRC Public Document Room w/encls.
State Public Document Room w/encls.
A. Austin w/encls.
Irving Bell w/encls.
P. Babb (w/o encls.)