

WISCONSIN HOSPITAL ASSOCIATION

DOCKET NUMBER PR 2
PROPOSED RULE 45 FR 66254

December 22, 1980



Secretary of the Commission
U.D. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Sir:

On behalf of the Wisconsin Hospital Association (WHA) and its 146 institutional members, I am submitting for your consideration comments on the Nuclear Regulatory Commission's "Proposed General Statement of Policy and Procedure for Enforcement Action" as it appeared in the October 7, 1980, issue of the Federal Register.

Of greatest concern to Wisconsin hospitals is the statement's lack of clarity. The NRC summary indicates that "the proposed policy statement is intended to inform licensees and the public of the bases for taking various enforcement actions". The WHA believes that the statement fails to satisfy that objective in several instances. For example, in addressing the issuance of "notices of violations", the policy states that "NRC will not generally (emphasis added) issue notices of violation for a violation that meets all of the four following tests..." In this case, the term "generally" has created confusion about exactly when and under what circumstances a notice will be issued.

Also, it is felt that Severity Levels IV, V, and VI for the Health Physics category are inadequately defined. Catch-all phrases such as Severity IV's "failure to follow requirements... not covered in Severity Levels I, II, or III that substantially reduces the margin of safety," or Severity V's "any other matter, including failure to follow procedures, that has other than minor safety or environmental significance" are unacceptable and provide no guidance for hospitals which will be affected by the policy statement.

Questions have also been raised regarding how an occasional failure to monitor in a hospital setting will be treated under this policy statement. In a telephone conversation with Mr. Dudley Thompson, NRC's Executive Officer for Operations, a WHA staff person was told that such an incident would not be subject to an enforcement action. If that is the case it should be included in the policy statement or a part of the definition of Severity VI for health physics.

Acknowledged by card.... 12/22/80

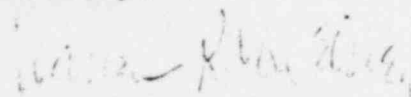
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A second area of concern is the NRC's "incentives" for encouraging licensees to discover, correct, and report in a timely fashion any violation. However, the WHA believes that the provision being proposed (50% reduction in civil penalties and another 25% reduction for "good faith" efforts) do not go far enough if every day of noncompliance is considered a violation. Modification to the incentive approach should be considered in this area.

Finally, the WHA finds the contentious language contained within the "Introduction and Purpose" section to be unjustified and detrimental ensuring compliance with NRC regulation and license conditions by health care institutions. The WHA agrees that potentially hazardous, egregious, and repeated violations should be dealt with forcefully. However, it does not consider that an adversary relationship needs to be established in every instance -- especially in those cases where the violations are minor, easily corrected and are not repetitive. In such cases, it is WHA's belief that the quality of patient care and safety is better served by the suggestions and recommendations that can be exchanged between the institution and the NRC staff person.

On behalf of the Wisconsin Hospital Association I would urge you to give serious consideration to these recommendations prior to formalizing the final statement of policy. If you have any comments or questions regarding this testimony, please do not hesitate to contact me or David Hewett of the WHA staff.

Sincerely,


Warren R. Von Ehren
President

WRVE/dl