



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

ENERGY AND MINERALS
DIVISION

00156

B-180225



November 11, 1976

The Honorable Marcus A. Rowden
Chairman, Nuclear Regulatory
Commission

Dear Mr. Rowden:

We reviewed the Commission's policies and practices for administering the Agreement State Program with particular emphasis on the Commission's annual evaluation of the States' programs. As a result of our work, we believe that certain changes could be made to make the program more effective.

The Commission annually evaluates each State program to determine its adequacy in protecting public health and safety and continued compatibility with the Commission's regulatory program. Although technical- and administrative-related weaknesses are often noted during these reviews, the Commission usually concludes that each State's program is adequate and compatible. Occasionally, however, the weaknesses noted are serious enough that the Commission cannot make a determination that a State program is adequate and compatible. For example, during an accelerated review of the agreement State program conducted in fiscal year 1973, the Commission was unable to make a formal determination of adequacy and compatibility for the Maryland and New York City Department of Health 1/ programs because of various weaknesses in these programs.

In 1974, follow-up conferences were conducted with officials of California, Maryland, and Kentucky to resolve problems noted during the annual review of these programs. In 1975 the agreement State staff did not make a determination of adequacy and compatibility for Maryland and deferred for 2 months a determination for Tennessee because these States were experiencing difficulties--some repetitive--which affected the overall program performance.

1/The New York agreement program is administered by four State agencies, one of which is the New York City Department of Health.

EMD-77-4

Commission officials explained they could terminate a program but the problems would have to be severe and the State unwilling or unable to solve them. In the words of the past Chairman of the Commission revoking an agreement is a "little bit heavy handed" and the Commission is looking for ways to get States to respond without having to revoke the agreement. The Commission, therefore, relies on voluntary compliance and, where needed, schedules more frequent program reviews to prod particular States into making needed program improvements. Nevertheless, follow-up actions have not always been successful. Some States, such as Maryland, repeatedly exhibit weaknesses requiring follow-up actions by the Commission.

Other than revoking the agreement and resuming regulatory authority, the Commission has no enforcement authority to encourage State officials to effect program improvements. The Commission is currently seeking ways to get States to respond to its recommendations.

Two specific problems frequently noted during the annual reviews are that the States' funding and staffing levels are at or below the Commission's minimum guidelines based on actual experience of all agreement States. We found that the Commission in its evaluation letters to State health officials does not consistently highlight the relationship between unacceptable agreement program funding and staffing levels and observed technical-related weaknesses. For example, during the 1975 review of the Florida program, the Commission found numerous weaknesses in the State's compliance program which were related to the high turnover rate of professional staff experienced. This was not mentioned in the evaluation letter. Establishing such a relationship and addressing the evaluation letters to the State Governors would, we believe, emphasize the importance of sufficient funds and staff and assist the Commission in persuading State officials to allocate additional funds and/or staff needed to correct the weaknesses.

We also believe the Commission should make the findings of their periodic reviews available for public inspection by placing them in appropriate State clearinghouses and the Public Documents Room. This would insure that the Commission's opinion on the adequacy and compatibility of each State's program is disclosed to the affected public and may provide public pressure to influence State officials to respond to the Commission's recommendations.

State program directors told us they have requested but have been unable to obtain additional funds to meet the Commission's guidelines. Only five States now collect fees for licensing radioactive materials users but many other States do not have legislative authority to do so. While the fees collected do not enable these States to recover the total cost of their agreement materials program, they do represent a substantial recovery. The Advisory Committee on Intergovernmental Relations

supports making programs self-sufficient by imposing user's fees on the beneficiaries. One program director stated that more States might have fee systems if the Commission provided technical assistance on the mechanics of establishing one. Therefore, the Commission should consider developing model legislation to aid those States which may have an interest in establishing a fee system.

RECOMMENDATIONS

As indicated above, we believe that certain changes could be made to make the program more effective. Specifically, we recommend that the Commission

- clearly relate funding and staff shortages to observed weaknesses in licensing and inspection practices;
- address findings noted during the annual review to the Governors of the States;
- develop model legislation to assist States in establishing systems for collecting license fees; and
- make copies of the annual review findings available for public inspection by placing them in appropriate State clearinghouses and the Commission's Public Documents Room.

We have discussed these matters with Commission Agreement State Program officials. They concurred with our suggestions, except they believe State Governors should be notified only in cases where program weaknesses could not be resolved at a lower level.

- - - -

We appreciate the courtesy and cooperation extended to us during our review.

Copies of this report are being furnished to the Chairman, Joint Committee on Atomic Energy, and the Chairmen of the House and Senate Appropriations and Government Operations Committees.

As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House and Senate Committees on Government Operations not later than 60 days after

B-180225

the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Monte Canfield, Jr.", written in dark ink.

Monte Canfield, Jr.
Director