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M. JOYCELYN ELDERS, M.D.  
DIRECTOR

RLB, SAS, JSS, CHM  
Arkansas File  
White State Book

August 16, 1993

Richard Bangart, Director  
Office of State Programs  
U. S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

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Dear Mr. Bangart,

This letter responds to Mr. Carlton Kammerer's correspondence of July 22, 1993 to Dr. Joycelyn Elders regarding the Commission's review of Arkansas' Agreement State Program. We are pleased with the finding of adequacy to protect the public health and safety and compatibility with NRC regulations.

To update you on the status of current rule revisions including the State equivalent of 10 CFR Part 20, these proposed regulations recently received a "do-pass" from the Arkansas Legislature's Legislative Council. The rules will go back to the Arkansas Board of Health for final approval in October and should be implemented by January 1, 1994.

Significant effort has been applied to the issue of staff turnover. That effort is detailed in the attachment to this letter which also responds to your comments in Enclosure 2 of your letter. The response was prepared by Ms. Greta Dicus, Director of the Division of Radiation Control and Emergency Management and Mr. Rick Kelley, Supervisor of the Radioactive Material Section. Any comments regarding our response may be directed to Ms. Dicus.

The Department appreciates your positive comments and the courtesy and professionalism exhibited by Mr. Richard Blanton during the review of the program.

Sincerely,

Tom Butler  
Acting Director  
Arkansas Department of Health

GJD:lf  
RAD:382

Enclosure: Attachments

"An Equal Opportunity Employer"

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**Attachment I**  
**Response to Review Finding**

I. Status of Program Related to Previous NRC Findings.

1. Recommendation regarding computerization of selected program functions.

We will continue our efforts to computerize selected program functions. Meetings are planned with the Bureau's Computer Coordinator to identify the elements that need to be included. We are hopeful we can finalize this process in a timely fashion.

Also, laptop computers have been provided to inspection personnel. The various inspection forms will be programmed on the laptops to facilitate recording of the inspection findings.

2. Surveys of incoming packages.

The Division takes exception to this finding. As noted, the recommendation from 1991 addressed teletherapy in particular and, as noted in the current review, was addressed. The new "variance" should not be included as an ongoing item from a previous review. But we also disagree with the finding discussed in Section II.

3. Closeout Inspections-License Termination

Before a license that has authorized the use of sealed sources can be terminated, all sealed sources must be accounted for (i.e. returned to the manufacturer, given to another licensee who has proper possession limit or disposed of by the manufacturer). The Health Physicist checks on this information. The Supervisor double checks all information. The Division Director signs the termination amendment for this license. The termination procedure will be revised to reflect the above language.

4. Rules for Civil Penalties.

As noted in the current review, the recommendation to develop implementing rules was addressed. Why is this a continuing item? Your comment that "no civil penalties have been assessed to date" should not be coupled with the recommendation. We think they are separate issues. However, we also disagree with the implication in your comment that the program is lacking if civil penalties are not assessed. To the contrary, the need to assess civil penalties indicates significant violations have occurred. We believe a more successful program is one that reduces the number of violations that occur such that civil penalties are not necessary.

5. Modification of Inspection Forms. An addendum has been developed to be added to inspection forms as needed when reviewing program laboratories or multiple use areas. See attachment.

6. Salary Upgrades.

The status of salary upgrades is discussed in Section II.

II. Current Review Comments and Recommendations.

1. Media contact telephone lists.

Attachment III is the updated list. This list is routinely updated by the Division of Health Education.

2. Staff Continuity.

The Department has been aware of the staff turnover problem for some time. Considerable effort has gone into achieving a salary level that addresses, at least in part, the issue of staff turnover. This effort gained a measure of success, when in June a new salary structure was implemented. This structure provides for substantial raises based upon experience and training. The purpose is to be able to retain the technical staff once they have been trained as we had identified a root cause of staff turnover as being the loss of health physicists shortly after they had completed training because we could not provide salaries commensurate with those paid elsewhere for experienced personnel. It is believed that this new structure will help to alleviate this problem.

3. Repeal of the Procedure Allowing Licensee to be Exempt From Package Surveys.

We strongly disagree with this recommendation and further request that the NRC justify the recommendation based on a cost versus benefit basis with particular reference to rising health care costs and the proposed National Health Care Plan. We believe the proposed procedure is justified, and presents no health and safety risk and is very controlled. Further, we have several years worth of data supporting this procedure. During the time it has been in place, there has not been a single incident as a result of allowing this exemption. As a brief summary, this procedure allows facilities receiving a radiopharmaceutical from the in-state nuclear pharmacy to waive the incoming package survey under the following guidelines: The package is delivered by the nuclear pharmacy, ie, only one person has handled the package, the package is not damaged and is not leaking, the package has not been dropped and the transport vehicle was not involved in an accident. The requirement to survey incoming packages is not waived under any other set of conditions. Again, our position is that this practice does not represent a risk and is cost effective. It will remain in place unless and until it is proven otherwise.

4. Modification to Inspection Forms.

Please see our response to Item I.5.

**Attachment II**  
**Laboratory/Work Area**

1. Name:
2. Amount authorized:
3. Amount disposed:
4. Amount present:
5. Work area(s):
  - a. License survey:
  - b. Inspector survey:
  - c. Wipe(s) taken:
6. Disposal area(s):
  - a. Licensee survey:
  - b. Inspector survey:
  - c. Wipe(s) taken:
7. Storage area(s):
  - a. Licensee survey:
  - b. Inspector survey:
  - c. Wipe(s) taken:
8. Other (information)
9. Questions?

Attachment III

MEDIA TELEPHONE AND FAX NUMBERS

Little Rock

<u>Media Outlet (Radio)</u>	<u>Telephone Number</u>	<u>Fax Number</u>
KARN - 920 (AM)	661-7555	661-7519
KKYK - 103.3 (FM)	378-0104	375-4478
KHLT - 1010 (AM) 94.1 (FM)	664-6397	664-5871
WZOU - 98.5 (FM) 1250 (AM)	661-0150	661-1562
KSSN - 95.7 (FM)	227-9696	228-9547
KEZQ - 1150 (AM) 100.3 (FM)	372-7740	372-7787
KIRR - 92.3 (FM)	663-0092	664-9201

<u>Media Outlet (T.V.)</u>	<u>Telephone Number</u>	<u>Fax Number</u>
KARK (Channel 4)	376-4444	375-1961
KATV (Channel 7)	324-7760	374-7852
KLRT (Channel 16)	225-0016	225-0428
KTHV (Channel 11)	376-1111	376-1645
KASN (Channel 38)	225-0038	565-2825

<u>Media Outlet (Newspaper)</u>	<u>Telephone Number</u>	<u>Fax Number</u>
Arkansas Democrat/Gazette	378-3485	372-3908
Associated Press Wire Service (A.P.I.) (Harry King, Editor)	374-5536	378-7541
Capitol Press Room	682-6078	375-7048