

September 15, 1998

FOR: The Commissioners

FROM: L. Joseph Callan /s/
Executive Director for Operations

SUBJECT: REQUEST BY ARKANSAS TO RELINQUISH AUTHORITY FOR SEALED SOURCE AND DEVICE EVALUATION AND APPROVAL

PURPOSE:

To obtain Commission approval to accept relinquishment of sealed source and device (SS&D) evaluation and approval authority from the Agreement State of Arkansas, effective October 1, 1998.

BACKGROUND:

In Staff Requirements Memorandum (SRM) dated June 30, 1995, in response to SECY-95-136, "Options to Improve and Standardize the Evaluation and Approval of Sealed Sources and Devices Manufactured in Agreement States," the Commission approved a process for the voluntary return of the SS&D evaluation authority from Agreement States. The process indicates that a letter from the Governor of the State requesting relinquishment of the SS&D evaluation and approval authority and resumption of the authority by the Nuclear Regulatory Commission (NRC), should be submitted to the Chairman. The request from the Governor would serve as the basis for NRC action and no detailed supporting basis or rationale is required for relinquishment of SS&D evaluation and approval authority and resumption by the NRC.

In an SRM dated April 10, 1996, in response to SECY-96-050, "To Seek Authorization to Accept Relinquishment of Sealed Source and Device Evaluation Authority from the Agreement States of Iowa, North Dakota, and Utah," the Commission approved the resumption of regulatory authority by NRC for SS&D evaluations in these three States.

CONTACT: Lloyd A. Bolling, Jr., OSP
415-2327

In a letter dated July 1, 1998, from Arkansas Governor Mike Huckabee to Chairman Jackson (Attachment 1), the State requested relinquishment of SS&D evaluation authority. The NRC acknowledged the Arkansas request in a letter dated July 15, 1998, to Governor Huckabee from Richard L. Bangart, Director, Office of State Programs. Following the process established in SECY-95-136, the staff is providing the letter from the Governor of Arkansas; a proposed response to Governor Huckabee from Chairman Jackson, accepting the Governor's request; and a proposed notice to be published in the *Federal Register* announcing NRC's intention to reassert SS&D evaluation authority in the State of Arkansas.

DISCUSSION:

The Governor of Arkansas, Mike Huckabee, in his July 1, 1998 letter to Chairman Jackson, indicated that specific requests for the Arkansas Radiation Control Program to perform SS&D evaluations had been few (three requests) since Arkansas became an Agreement State in 1963. He further indicated that no requests for SS&D evaluations were anticipated. The Governor stated that Arkansas is committed to maintaining a high quality regulatory program for radioactive materials. He also stated that it would be difficult to maintain high quality in an extremely small and unique program area that demands atypical expertise on an infrequent basis and that the State could not justify the resources required to perform the evaluations. Based on this, the State requested relinquishment of its authority to perform SS&D evaluations.

The staff has drafted a proposed response to Governor Huckabee from Chairman Jackson, accepting the State's request, [Attachment 2](#). In accordance with SECY-95-136, an effective date is proposed, October 1, 1998, for the relinquishment of SS&D evaluation and approval authority by the State of Arkansas and resumption by the NRC. The staff believes this proposed date will provide for an orderly transfer of authority.

The staff has also drafted a proposed notice to be published in the *Federal Register* announcing NRC's intention to reassert SS&D evaluation authority in Arkansas, [Attachment 3](#). The effective date of October 1, 1998 is identified in that notice.

RESOURCES:

The State of Arkansas became an Agreement State on July 1, 1963. Since becoming an Agreement State, the staff notes that the State has submitted three SS&D sheets to the national registry. These sheets were issued during the period May 23, 1983 to January 25, 1995. Since only a small number of SS&D evaluations were conducted by Arkansas in the past and no recent applications have been received, NRC's resumption of regulatory authority will have essentially no resource impacts at this time.

RECOMMENDATIONS:

The staff recommends that the Commission approve the letter to the Governor of Arkansas and the proposed *Federal Register* notice.

NOTE:

Upon Commission approval of the above actions, the staff will recommend to the Arkansas Agreement program that they provide public notice of this

action to their licensees.

COORDINATION:

The Office of General Counsel has no legal objection to this paper. Additionally, the Office of the Chief Financial Officer has reviewed this Commission Paper for resource implications and has no objections.

L. Joseph Callan
Executive Director for Operations

Attachments: 1. [Letter from Governor of Arkansas](#)
 2. [Proposed Response to Governor of Arkansas](#)
 3. [Proposed *Federal Register* Notice](#)

ATTACHMENT 2

The Honorable Mike Huckabee
Governor of Arkansas
State Capitol
Little Rock, Arkansas 72201

Dear Governor Huckabee:

In response to your July 1, 1998, request to relinquish Arkansas' authority to evaluate and approve sealed source and device (SS&D) applications, I asked the Nuclear Regulatory Commission (NRC) staff to prepare a paper on the issue so that the Commission could act on your request. After reviewing your proposal and the staff's analysis, the Commission has decided to reassume regulatory authority for SS&D evaluations and approvals within the State of Arkansas, effective October 1, 1998. For your information, I have enclosed a copy of the *Federal Register* notice announcing this change. Arkansas will retain authority to regulate the manufacture and use of sealed sources and devices within the State in accordance with its Section 274b Agreement with the NRC.

Your staff may contact Richard L. Bangart, Director, Office of State Programs, at (301) 415-3340, if they have any questions regarding this matter.

Sincerely,
Shirley Ann Jackson

Enclosure: As stated

cc: David D. Snellings, Jr., Director
 Division of Radiation Control and Emergency Management

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ATTACHMENT 3

NUCLEAR REGULATORY COMMISSION

State of Arkansas Relinquishment of Sealed Source
and Device Evaluation and Approval Authority and
Reassumption by the Commission

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Reassumption of Sealed Source and Device Evaluation and Approval Authority from the State of Arkansas.

SUMMARY: Notice is hereby given that effective October 1, 1998, the Nuclear Regulatory Commission will reassume regulatory authority for sealed source and device evaluations and approvals in the Agreement State of Arkansas in response to a request from the Governor of the State of Arkansas to relinquish this authority.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Lloyd A. Bolling, Jr., Agreement State Project Officer, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-2327, Internet: LAB@NRC.GOV.

SUPPLEMENTARY INFORMATION: Currently, the State of Arkansas has an Agreement with the Nuclear Regulatory Commission (NRC) which grants the State authority to regulate specific categories of radioactive materials formerly regulated by the NRC. This Agreement was entered into on July 1, 1963, pursuant to Section 274b of the Atomic Energy Act of 1954, as amended.

Recently, the NRC received a letter from Arkansas Governor Mike Huckabee dated July 1, 1998 requesting relinquishment of the State's authority to evaluate and approve sealed source and devices, and reassertion of this authority by the NRC. The requested action would involve reassertion of regulatory authority by NRC over activities currently regulated by Arkansas pursuant to its Agreement with NRC.

The Governor indicated that specific requests for the Arkansas Radiation Control Program to perform SS&D evaluations had been few (three requests) since Arkansas became an Agreement State in 1963. He further indicated that no requests for SS&D evaluations were anticipated. The Governor stated that Arkansas is committed to maintaining a high quality regulatory program for radioactive materials. He also indicated that it would be difficult to maintain high quality in an extremely small and unique program area that demands atypical expertise on an infrequent basis and the State could not justify the resources required to perform the evaluations. Based on this, the State requests to relinquish its authority to perform sealed source and device evaluations.

The Commission has agreed to the request and has notified Arkansas that effective October 1, 1998 the NRC will reassume authority to evaluate and approve sealed source and devices within the State of Arkansas. The State of Arkansas will retain authority to regulate the manufacture and use of sealed sources and devices within the State in accordance with its Section 274b Agreement with the NRC.

Dated at Rockville, Maryland this _____ day of _____, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle
Secretary of the Commission