

DATED: MAR 13, 1994; SIGEND BY RICHARD BANGART

Mr. Tom Butler, Acting Director
Arkansas Department of Health
4815 West Markham Street, Slot 30
Little Rock, AR 72205-3867

Dear Mr. Butler:

Thank you for your letter of August 16, 1993, responding to the comments and recommendations from our 1993 review of the Arkansas Radiation Control Program (RCP). We regret the delay in our response, caused by the volume of other business.

We appreciate the positive actions that you and your staff are implementing with regard to our comments. After review of your actions and further discussions with your staff, we believe that your responses constitute acceptable refinements of the program. We are particularly pleased with the State's efforts to reduce staff turnovers.

Thank you for the support and cooperation extended to our representative during this review.

Sincerely,

Richard L. Bangart, Director
Office of State Programs

cc: Ms. Greta Dicus, Director
Division of Radiation Control
and Emergency Management

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Arkansas Department of Health
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*See previous concurrence.

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1991 Comment - Office Equipment
and Support Services - Category II

The State had computer equipment available and additional systems with automatic typing and data retrieval capability. These systems were either being under utilized or not being used at all because staff resources had not been made available for data input. Most licensing and inspection tracking was done on handwritten logs by the technical staff. In addition, standard license conditions were manually typed on each license in spite of a reduction in secretarial support.

Recommendation

That the program management place a higher priority on computerizing selected program functions to promote more efficient and productive use of technical and clerical staff time.

1993 Finding

A higher priority was placed, but utilization of office automation was still limited due partly to the turnover of both secretarial and technical staff.

State Response

The State plans to continue efforts to computerize selected program functions. Meetings are planned with the Bureau's Computer Coordinator to identify the elements that need to be included. 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.

Analysis

The response is adequate, however, the final resolution depends in part on the stabilization of the technical staff so that, with training and experience, the computer tools can be effectively utilized.

Status of Comment

This comment should be considered an unresolved minor concern. It is noted that this and other comments are related to the issue of Staff Continuity.

1991 Comment - Licensing Procedures - Category II

The RCP should have internal licensing guides, checklists, and policy memoranda consistent with current NRC practice. Several variances (examples given) in the licensing procedures for teletherapy were noted.

Recommendation

That the staff review the licensing guides and procedures for teletherapy.

1993 Finding

The recommended review was completed but not extended beyond teletherapy licensing. During the current review a previously unrecognized variance was noted in nuclear medicine licensing. A procedure from 1984 allows the required survey of incoming packages to be waived on request of the licensee.

State Response

The State takes exception to this finding. They point out that the recommendation from 1991 addressed teletherapy in particular and, as noted in the current review, was addressed. They take the position that a new "variance" should not be included as an ongoing item from a previous review.

Analysis

The 1991 comment was one of three under the indicator of licensing procedures. The other two concerned a standard license condition for leak test requirements and the documentation of source accountability from terminated licenses. The reviewer chose to consider the resolution of this comment a continuing concern based on the commitment by the Division to conduct an overall review of the licensing guides (see: item 3b, page 2, of the memorandum dated July 15, 1991, from Greta J. Dicus to Joycelyn M. Elders, M.D. as attached to the letter dated July 16, 1991, from Dr. Elders to Carlton Kammerer).

From this viewpoint, the "new" variance is only an illustration of the need to complete the planned overall review, particularly considering the revised requirements of the new Part 20. (See also the third comment from 1993 review)

Status of Comment

This comment should be combined with the 1993 comment and should be considered an unresolved minor concern. It is noted that this and other comments are related to the issue of Staff Continuity.

1991 Comment - Licensing Procedures - Category II

A review of selected terminated license files revealed inadequate documentation of source accountability. In one file, there was no documentation that the recipient was licensed to receive the radioactive material being transferred. In another, there was no documentation that the LLW generated during the licensee's decontamination operation was properly transferred.

Recommendation

Modification of Inspection Procedure RAM-03.4 entitled "Policy and Procedure for Closeout Inspections" was recommended, to include procedures for ensuring adequate documentation of the accountability of all radioactive material prior to terminating a license.

1993 Finding

The procedure had not been modified, however the need to include adequate documentation was stressed by supervisory personnel.

State Response

The State confirmed its intent to revise the Inspection Procedure.

Analysis

As before, the actions planned in response to the comment should resolve the concern when they are completed.

Status of Comment

This comment should be considered an unresolved minor concern. It is noted that this and other comments are related to the issue of Staff Continuity.

1991 Comment - Enforcement Procedures - Category I

The State has authority to impose civil penalties, but has not developed implementing procedures. During the compliance file review, a case was identified as a candidate for a civil penalty.

Recommendation

It was recommended that the State develop implementing rules for civil penalties.

1993 Finding

The rules were developed and are in effect, however, no civil penalties have been assessed to date. The Board of Health policy is to reserve the use of civil penalties as a last resort before moving to revoke a license.

State Response

The State notes that the recommendation was to develop implementing rules, which was accomplished. The State expresses disagreement with their interpretation of the 1993 finding.

Analysis

It was the intent of the 1993 reviewer to document the accomplishment as justification for considering the comment to have been resolved. The comment on the Board policy was intended to document the difference in philosophy between the State and NRC concerning the use of civil penalties. No value judgement was intended.

Status of Comment

This comment should be considered to have been resolved.

1991 Comment - Inspection Procedures - Category II

The State uses detailed inspection forms as a means of both providing guidance to the inspectors and for documenting findings. Both the quality of inspections and subsequent documentation can be significantly improved by modifying the inspection form.

Recommendation

The recommendation was made that the inspection forms for medical and broad scope licensees be modified to include entries to assure coverage and recording of information on visits to labs and other sites where radioactive materials are used, observations of operations, interviews and independent measurements. It was further recommended that minor improvements be made to other forms, e.g., add a section on transportation to forms for inspecting industrial radiographers and well loggers.

1993 Finding

Due to staff turnover, the RCP has been unable to complete action on this recommendation.

State Response

See the 1993 Finding on Inspection Reports.

Analysis and Suggested Acknowledgement

See the 1993 Finding on Inspection Reports.

1991 Comment - Staff Continuity - Category II

The radiation control program was continuing to lose supervisory and experienced personnel. This was commented on in the two previous program reviews.

Recommendation

The State must upgrade its salaries in order to be competitive with other States for experienced personnel.

1993 Finding

Salaries for the staff for FY93 were increased by about 1.4% to 8.5% with the larger increases given at the upper end of the ranges. Efforts were underway to get approval for an additional increase using money from an unfilled X-Ray health physicist position, but turnover remained a problem. During the review period four individuals departed from two non-supervisory positions on the materials staff.

State Response

See 1993 Finding on Staff Continuity.

Analysis and Suggested Acknowledgement

See 1993 Finding on Staff Continuity.

1993 Finding - Administrative Procedures - Category II indicator.

Comment

A review of the procedures for response to materials incidents revealed that the telephone lists for contact with media are not complete. Although media organizations were listed, there were only blanks for the telephone numbers. Similar lists attached to procedures for response to fixed nuclear facility emergencies are complete and current.

Recommendation

The phone lists in the materials response procedures should be completed and regularly checked, or the procedures should be modified to reference similar lists in the fixed nuclear facilities emergency response procedures, if appropriate.

State Response

The phone list has been completed. Arrangements have been made with the Division of Health Education to routinely update the list.

Analysis

The State action appears to resolve the comment.

Status of Comment

This comment should be considered to have been resolved.

1993 Finding - Staff Continuity - Category II indicator.

Comment

Staff turnover continues to be a problem. In the last two years, a total of four individuals have left staff positions in the materials section. Since there are only three staff and one supervisory positions in the section, this amounts to more than a 100% turnover rate in the staff positions. Most of the other problems observed during this review can be directly or indirectly related to this turnover problem. It is to be noted that some measures have already been taken and other efforts are underway to resolve the major contributing factor in the turnover, the relatively low staff salaries.

Recommendation

The program management should continue their current efforts to seek salaries competitive with the salaries paid by other employers which have attracted staff from the Arkansas program.

State Response

In June a new salary structure was implemented.

Analysis

As noted in the prior reviews, the staff turnover to date does not seem to have had a significant adverse effect on the radiation control program. There is no reason to presume, however, that the effect of further turnover will be benign. Further, as noted herein, the turnover has detracted from the implementation of automation and the development of up-to-date program procedures.

Status of Comment

This comment should be considered to remain a minor concern until experience demonstrates that the staff has stabilized and the program has been able to address the other related minor concerns.

1993 Finding - Licensing Procedures - Category II indicator

Comment

During the review of licensing policies and procedures, a procedure was found which allows a nuclear medicine license applicant to be exempted from the requirement to survey packages containing radiopharmaceuticals if the packages are received from a nuclear pharmacy. The procedure was adopted in 1982, and apparently has not been reviewed since. It is noted that a complete review of the program's procedures is planned.

Recommendation

This procedure should be repealed, and the planned review of the procedures should be completed as early as possible.

State Response

The State strongly disagrees with the recommendation. They point out that the exemption granted by the procedure is conditional and strictly limited. They further note that there have been no known incidents associated with the exemption.

Analysis

A further review of the procedure and the regulations in the old and new 10 CFR Part 20 indicates that the procedure should be repealed as recommended. It is noted that under 10 CFR 20.205(c)(1) and the equivalent State rules, survey is not required if a package contains less than a Type A quantity. The revised rule, 10 CFR 20.1906(b)(2) and equivalent State rules, will continue the exception. The rule itself effectively exempts unit doses, but not all packages shipped from the pharmacy are unit doses. Packages containing greater than Type A quantities should not be granted exemptions except on a case-by-case basis.

Status of Comment

This comment should be considered an unresolved minor concern until the planned review of all procedures has been completed. It is noted that this and other comments are related to the issue of Staff Continuity.

1993 Finding - Inspection Reports - Category II indicator

Comment

The modifications to the inspection report forms for medical and broad scope licensees recommended at the last review have not been completed due primarily to the staff turnover.

Recommendation

Program management should consider placing a higher priority on completing the modifications, even before the turnover problem is resolved. The use of complete forms is even more important for relatively inexperienced staff.

State Response

The State has developed, apparently since the 1993 review, an addendum for use when reviewing licensee laboratories or multiple use areas.

Analysis

In item 6b. of the July 15, 1991 memorandum, the State notes that the RAM supervisor was tasked with revising the inspection forms to include the suggested changes along with other format changes. It is not clear that the development of the addendum completes the action planned in the memo.

Status of Comment

This comment should be considered to remain a minor concern. It is noted that this and other comments are related to the issue of Staff Continuity.