



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76011

January 18, 1983

Henry D. Smith, M.D.
Director of Health
Nebraska Department of Health
301 Centennial Mall South
Post Office Box 95007
Lincoln, Nebraska 68509

Dear Dr. Smith:

This is to confirm the discussion Mr. Ralph S. Heyer held with Mr. Lawrence Graham, Mr. Ellis Simmons, and yourself on November 10, 1982, following the review and evaluation of the Nebraska radiation control program conducted October 6-8 and November 8-10, 1982. The review covered the principal administrative and technical aspects of the program. This included an examination of the program's legislative authority and regulations, organization, management and administration, personnel and licensing, and compliance functions.

Our review used as a reference the "Guidelines for NRC Review of Agreement State Radiation Control Programs." These guidelines were published in the Federal Register on December 4, 1981, as a final general statement of policy. The Guide provides 30 indicators for evaluating Agreement State program areas. Guidance as to their relative importance to an Agreement State program is provided by categorizing the indicators into two categories. Category I indicators reflect on a State's ability to adequately protect the public health and safety. Category II indicators are essential in order to avoid the development of problems in one or more of the principal program areas; i.e., Category I indicators. When one significant Category I comment is made, the deficiency may seriously affect the State's ability to protect the public health and safety and the matter needs to be addressed on a priority basis. If there are more than one significant Category I comments, then improvements in those areas are critically needed. In such cases, we will need a timely response from the State, and NRC staff recommendations for adequacy and compatibility will not be offered until after the response is received and evaluated. In the latter case, a followup review would be made within 6 months.

Our review identified significant problems in two Category I indicators as follows:

1. The indicator, "Status of Inspection Program," recommends that the State maintain an inspection program adequate to assess licensee compliance with State regulations and license conditions. At the time of our review there was a backlog of 48 inspections (which is 28% of Nebraska licenses) overdue, ranging from 3 months to 3 years. We recommend that management establish a short-term action plan for the next 3 to 6 months to deal with this backlog. Such a plan should include goals and set benchmarks, establish priorities, and provide progress reports to management.

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2. The indicator, "Enforcement Procedures," recommends that the radiation control program issue enforcement letters within 30 days following inspections and employ appropriate regulatory language clearly specifying all items of noncompliance and health and safety matters identified during the inspection. Our review disclosed cases where enforcement letters were not issued within the recommended 30 days following the inspection. In some cases, there was no documentation that letters were sent to the licensee. In other instances, it was noted that enforcement letters that were sent did not specify a time period for the licensee to respond. There were also cases where the licensee did not respond to an enforcement letter, and in other case there was no documentation of a letter of acknowledgement from the State.

We recommend development of a tracking system such as a file book to maintain up-to-date information on the status of compliance and enforcement activities. The system should cover key milestones such as the date the enforcement letter was sent to the licensee, the date the licensee is requested to respond (usually 20-30 days), the date of the response, and whether each case is resolved or needs further attention. This would provide a means to monitor individual enforcement actions and provide statistical information about the program.

Enclosed are our specific comments on the technical and administrative aspects of the program. If you wish, Mr. Simmons is welcome to respond to these comments.

I would appreciate your review of our recommendations and receiving your plans to improve the agreement materials program. Enclosed is an extra copy of this letter for placement in your State Public Document Room or otherwise made available for public review.

I appreciate the courtesy and cooperation extended to Mr. Ralph S. Heyer during the meeting with your staff.

Sincerely,

Richard L. Bangart for
John T. Collins
Regional Administrator

Enclosure:
As stated

cc w/enclosure:
Lawrence Graham, Nebraska
Ellis Simmons, Nebraska
G. Wayne Kerr, OSP
D. A. Nussbaumer, OSP
State Public Document Room
NRC Public Document Room

TECHNICAL COMMENTS AND RECOMMENDATIONS
ON THE
NEBRASKA RADIATION CONTROL PROGRAM

I. Personnel

- A. "Training" is a Category II indicator. The following comment was developed:

Comment and Recommendation

The Division should continue to utilize specific short courses and workshops to maintain appropriate level of staff technical competence in areas of changing technology. It is recommended that the new license reviewer attend as many NRC "core" training courses as possible. These include "Licensing Orientation," "Medical Uses of Radioisotopes," and "Industrial Radiography." We also recommend that the new inspector attend the "Industrial Radiography" courses in the near future. NRC will fund the travel and per diem costs for those persons approved for the NRC sponsored training.

- B. "Staff Continuity" is a Category II indicator. The following comment was developed:

Comment and Recommendation

Since the last review, the program had lost two experienced technical staff members. We recommend that management monitor those factors that may have affected this turnover to assure that the factors do not continue to adversely affect the program's ability to attract and retain qualified staff in the future.

II. Licensing

- "Licensing Procedures" is a Category II indicator. The following comment was developed:

Comment and Recommendation

Our review of selected license files indicated that, in some cases, standard license conditions comparable with current NRC standard license conditions were not implemented. For example, the standard license condition for pharmacy licenses regarding molybdenum-99/technetium-99m breakthrough test for generators needs to be routinely incorporated when appropriate, e.g., radiopharmacy and medical licenses. A copy of current NRC standard license conditions has been furnished to Mr. Simmons.

III. Compliance

"Inspection Reports" is a Category II indicator. The following comments were developed:

Comments and Recommendations

In some cases, the inspection report did not document the scope of the actual inspection conducted. The following items were not always reported: (a) the substance of any discussions with licensee's management and the licensee's response; (b) results of any previous noncompliance items and identifying any areas of the licensee's program which should receive special attention during the next inspection; (c) independent physical measurements that may have been conducted during the inspection; and (d) pertinent comments developed during discussions with the licensee management or staff; e.g., worker interviews. Modifications of existing inspection forms and procedures coupled with closer supervisory review should enable improvements to take place.