

DEC 28 1995

James O'Connell, Secretary
Kansas Department of Health and Environment
900 SW Jackson Street, Suite 620
Topeka, KS 66612-1290

Dear Mr. O'Connell:

Thank you for your letter of November 20, 1995, responding to our review of the Kansas radiation control program (RCP). The NRC staff has reviewed the information provided in your letter, and obtained additional information in a telephone conversation with Mr. Gerald Allen of your staff. Enclosed is the NRC evaluation of the RCP responses relative to the two items identified in our October 31, 1995, letter. As explained in the evaluation, some of the items will be closed, the other items will remain open and will be assessed during our next review of the State's program.

Sincerely,

Original Signed By
RICHARD L. BANGART
Richard L. Bangart, Director
Office of State Programs

Enclosure:
As stated

cc w/encl:
Gerald W. Allen
State Liaison Officer

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DATE	12/08/95*		12/11/95*	12/21/95	12/28/95		

OSP FILE CODE: SP-AG-10

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PDR STPRG ESGKS
PDR

James O'Connell, Secretary
Kansas Department of Health and Environment
Topeka, Kansas

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NAME	RLBlanton		PLOhaus	CCameron	RLBangart		
DATE	12/28/95		12/11/95	12/ /95	12/ /95		

OSP FILE CODE: SP-AG-10



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 28, 1995

James O'Connell, Secretary
Kansas Department of Health and Environment
900 SW Jackson Street, Suite 620
Topeka, KS 66612-1290

Dear Mr. O'Connell:

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Richard L. Bangart

Richard L. Bangart, Director
Office of State Programs

Enclosure:
As stated

cc w/encl:
Gerald W. Allen
State Liaison Officer

EVALUATION OF KANSAS RESPONSES TO 1995 PROGRAM REVIEW

NRC staff have reviewed the responses contained in the November 20, 1995, letter from Mr. James O'Connell, Secretary, Kansas Department of Health and Environment, to Mr. Richard L. Bangart, Director, NRC Office of State Programs (OSP). The items and the State's responses are discussed below.

Status and Compatibility of Regulations (Category I Indicator) Item 1. of the October 31, 1995, letter from Richard L. Bangart, Director, OSP to James O'Connell, Secretary, Kansas Department of Health and Environment

Recommendation a.

An audit of licenses should be performed as soon as possible, to determine if adoption of the Emergency Preparedness rule, as discussed above, is required. The other four rules should be promulgated as soon as possible, and license conditions should not be used in substitution for the Industrial Radiography Equipment rule.

November 20, 1995, Response

The Secretary confirms that there are no licensees of the Kansas program that are subject to the Emergency Preparedness rule. It is further indicated, however, that an equivalent State rule will be developed along with the other rules discussed in the assessment of the indicator. With respect to the Industrial Radiography Equipment rule, the Secretary affirms the State's intent to adopt the rule while using license conditions as an interim measure.

Evaluation of State's Response

The State's actions with respect to the delay in adopting the Emergency Preparedness rule is appropriate and no further information is necessary. This item is closed.

With respect to the State's intent to adopt rules, current NRC policy is to make a finding of compatibility on the effective published rules only. These items will remain open and will be assessed during the next review of the State's program.

Recommendation b.

The Kansas program should modify the informal policy of waiting for a Suggested State Regulations (SSR) to be issued before starting the adoption of a rule or amendment which is required for compatibility. Consideration should be given to adding a policy provision which requires drafting a proposed rule based directly on the equivalent NRC rule if an SSR is not available in time to permit adoption of a Kansas rule which would become effective within 3 years after NRC adopts the rule.

November 20, 1995, Response

The Secretary states that Kansas does not intend to wait until model state regulations are available before initiating the development of rules that are a matter of compatibility.

Evaluation of State's Response

NRC staff considers the Secretary's statement to be an expression of the current State policy in the matter. As such, the action is appropriate and no further information is necessary. This item is closed.

Quality of Emergency Planning (Category I Indicator) Item 2. of the October 31, 1995, letter from Richard L. Bangart, Director, OSP, to James O'Connell, Secretary, Kansas Department of Health and Environment

Recommendation

If the response to an actual incident is to be used as a basis to meet the NRC guideline, we recommend that there should be a formal evaluation of the response actions compared to the planned actions to provide a feed-back of lessons learned, and to form the basis for modifications to the plan or to provide additional training of responders, as indicated. The plan itself should also be modified, if necessary, to provide guidance for such a critique.

November 20, 1995, Response

There was no response in the Secretary's letter to this recommendation. A telephone conversation was held on December 7, 1995, with Mr. Gerald Allen, Chief of Radiation Control Section, Bureau of Air and Radiation, to determine the status of the State's response. Mr. Allen stated that the recommendation was not addressed in the letter because the action recommended could be taken entirely within the Section and required no authorization from the Secretariat. Mr. Allen indicated that the recommendation had been accepted and appropriate modifications to the plan had been made.

Subsequently, by letter dated December 7, 1995, a copy of the revised procedure, designated RHS-47, was provided.

Evaluation of State's Response

The response is appropriate, and this item is closed.

(FYI) PHL
RLB2 SCP
CHM

EXECUTIVE TASK MANAGEMENT SYSTEM

<<< PRINT SCREEN UPDATE FORM >>>

TASK # - 5S332

DATE- 11/28/95

MAIL CTRL. - 1995

TASK STARTED - 11/28/95

TASK DUE - 12/11/95

TASK COMPLETED - / /

TASK DESCRIPTION - 11/20/95 RESPONSE FROM KANSAS - NRC REVIEW OF KS
RAD CONTROL PROGRAM

REQUESTING OFF. - KS

REQUESTER - J. O'CONNELL

WITS -

0

FYP - N

PROG. - RLB

PERSON -

STAFF LEAD - PHL

PROG. AREA -

PROJECT STATUS -

OSP DUE DATE: 12/13/95

PLANNED ACC. - N

LEVEL CODE - 1

Letter dated 12/7/95 with additional response is added. PRR
(attached)

State of Kansas

Bill Graves



Governor

Department of Health and Environment

James J. O'Connell, Secretary

November 20, 1995

Richard L. Bangart, Director
Office of State Programs
U.S. Nuclear Regulatory Commission
Washington DC 20555 0001

Dear Mr. Bangart:

Thank you for your letter of October 31, 1995, which briefly described the results of the May 1995 evaluation of the Kansas Radiation Control program by the U.S. Regulatory Commission (NRC).

I have discussed the letter with appropriate agency staff and believe that the implementation of the actions recommended in your findings will result in improvements to our program. We have already completed a detailed review of the four issues raised related to the compatibility of our regulations and have summarized our plans for responding to those issues below.

As suggested, the first regulation cited (emergency preparedness rule) is not applicable to Kansas since we have no licensees of that type in the state. We have concluded, however, that we would prefer to adopt all four regulations identified at this time, rather than wait until a licensee appears that would require this change. Agency staff are working on the preparation of that amendment at this time.

In addition, we have also determined it would be helpful to the program to adopt a standard condition requiring the use of "new" radiography devices on or before January 15, 1996. This change will make the use of these devices more consistent with those states which border Kansas in which NRC has jurisdiction. This requirement will apply to the 14 radiographers currently licensed in Kansas.

Finally, we intend to provide copies of the proposed changes to these regulations to your staff as they are developed. We do not intend to wait until model state regulations are available before attempting to develop Kansas language as has been our past practice.

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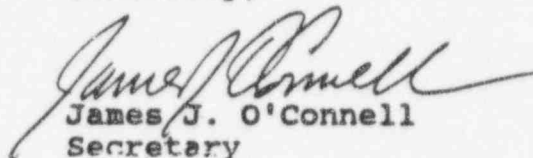
OSP

KL52
PHL
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The assistance received during our agency's radiation program review is appreciated by myself and staff. Please extend our appreciation to those in your agency that participated in the review.

If I can be of further assistance, please don't hesitate to contact this office.

Sincerely,


James J. O'Connell
Secretary

JJO:end

CC: Ron Hammerschmidt, Acting Director, DOE
John C. Irwin, Director, BAR
Gerald Allen, Chief, Radiation Control Section, BAR