

April 7, 2011

MEMORANDUM TO: Terrence Reis, Acting Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

FROM: Josephine Piccone, Director */RA/*
Division of Intergovernmental Liaison
and Rulemaking
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: DRAFT REVISIONS TO FSME PROCEDURE SA-500,
"JURISDICTION DETERMINATIONS"

This correspondence is in response to your March 10, 2011 memorandum. Per your request, we have completed our review of the draft revisions to FSME Procedures SA-500, "Jurisdiction Determinations," and our comments are attached.

If you have any questions, please contact me at (301) 415-7278 or my staff indicated below.

Enclosure:
As Stated

CONTACT: Cardelia Maupin, FSME/DILR
(301) 415-2312

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**Comments on the Draft Revision to FSME Procedure SA-500,
“Jurisdiction Determinations”**

1. On page 1, section I, line 4, delete “licensing” and insert “regulatory.” The responsibilities being addressed by the procedure are not limited to “licensing.” The concept of jurisdiction also includes inspection and enforcement. As such, this revision is needed to clarify the full scope of responsibilities being addressed by the procedure.
2. Generic Comment: On page 2, section III, subsection C, paragraph 1, line 1, and throughout the procedure, insert “under the Atomic Energy Act of 1954, as amended and” after “Agreement.” This revision is suggested to ensure proper citation of the legal authority.
3. Generic Comment: On page 2, section III, subsection C, paragraph 1, line 2; on page 2, section III, subsection D; and throughout the procedure, insert “Agreement” before “State.” This revision is suggested to clarify that the jurisdictional determinations are made between the NRC’s authority and the Agreement State’s authority. This suggested revision also delineates the powers vested in Agreement States from that of non-Agreement States.
4. On page 3, section III, subsection D, paragraph 2, line 1, insert an “s” after “license.” This revision is suggested for grammatical correctness. Agreement is needed between “reactor sites” and “license.”
5. Appendix A, section I, line 3, delete “licensing” and insert “regulatory.” The basis of this comment is the same as item 1 above.
6. Appendix A, section III, subsection A., item (1), line 11, insert “applying for reciprocity by” before “filing.” This revision is suggested for clarity.
7. Appendix A, section III, subsection A., item (1), line 12, delete “Form 241” and insert “NRC Form 241, “Report of Proposed Activities in Areas of Exclusive Federal Jurisdiction, Non-Agreement States and Offshore Waters.” This revision is suggested for completeness and clarity.
8. Appendix A, section III, subsection A., item (1), line 13, delete “by applying for” and insert “by obtaining.” This revision is suggested for completeness, clarity, and accuracy. This suggested revision makes it clear that it is not enough to apply for the NRC license before working in an exclusive Federal jurisdiction. An NRC license is needed before any work begins.