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March 27, 2014

Torre Taylor
Office of Federal and State Materials and Environmental Management Programs
U. S. Nuclear Regulatory Commission
Washington, DC 20555

RE: Request for Comments on the Draft Revision to the Office of Federal and State Materials and Environmental Management Programs Procedure SA-700, Processing an Agreement (FSME-14-016)

Dear Ms. Taylor,

The Organization of Agreement States (OAS) Executive Board (Board) has reviewed the above document and respectfully submits the following comments for consideration by the NRC.

General Comments

1. Formatting of listed items is not consistent. Some have periods, some have colons, and some have semi-colons.
2. The use of “program” and “Agreement materials program” is not consistent.
3. The distinction between the “NRC”, “Commission” and “Staff” is not clear at times. This should be discussed at the beginning of each document.
4. The documents should not list the “State Agreement Program Director” as the point of contact as the state may not have a program director hired yet or they may want someone else to be the point of contact during the agreement process. Recommend changing these references to the generic terms “State” or “staff”. Additionally, there is inconsistency on whether “Program Director” is capitalized.
5. The use of acronyms is not consistent throughout the documents. Once the acronym is named it should be used instead of the name.
6. The document should include more verbiage about contacting other agreement states and/or using their procedures.
7. The use of the word “Handbook” is not consistent throughout the Handbook for Processing an Agreement.

Specific Comments on the SA-700 Procedure

1. Section I.A: Recommend NRC use this verbiage from their webpage: “Section 274 of the Act provides a statutory basis under which NRC relinquishes to the States portions of its regulatory authority to license and regulate byproduct materials (radioisotopes); source materials (uranium and thorium); and certain quantities of special nuclear

Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin

materials. The mechanism for the transfer of NRC's authority to a State is an agreement signed by the Governor of the State and the Chairman of the Commission, in accordance with section 274b of the Act.”

2. Section II.B: Recommend changing to “uncertainties that a prospective Agreement State may encounter”.
3. Section IV.C: Recommend combining third and fourth sentences to “Other NRC offices (including other FSME staff) may also be represented.”
4. Section V.B., first sentence: It is unclear what is meant by staff in this sentence. According to IV.D on page 4, the RSAO is the lead before the letter is submitted and then the PM is the lead. Recommend changing the term staff to be more specific.
5. Section V.D.1: Recommend deleting the first sentence.
6. Section V.D.3: Recommend changing “publically” to “publicly”.
7. Section V.D.5: Recommend changing “should” to “may” in the last section
8. Section V.I.2: It is unclear what is meant by the term “PM team”. Recommend changing the term to be more specific.

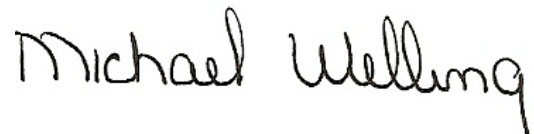
Specific Comments on the Handbook for Processing an Agreement

1. Section 2.3.2: Recommend referring to the MD 5.8 Handbook as the “Directive Handbook”.
2. Section 2.3.2: Recommend deleting “State requests for unique authority beyond the standard Agreement categories will require approval by the Commission.” This statement does not make sense because the entire agreement requires approval by the Commission.
3. Section 3.1.1: Recommend replacing second paragraph with “Security-related sensitive information should not be included as part of the Agreement application since the application is a public document. In parts of the application where States describe aspects of their program (for example, pre-licensing visits or security inspections), the State should verify that it will follow specified procedures.”
4. Section 3.4.3.3, second paragraph: Recommend changing “the State’s receipt of the review team’s written comments” to “the State’s receipt of the review team’s letter”.
5. Section 3.4.6: Recommend changing last sentence of first paragraph to “NRC inspectors should work closely with the State to establish inspection schedules.”
6. Section 3.5: Recommend changing first sentence to “The formal request should be a modification of the draft request which addresses NRC comments”. Also, recommend changing “See Appendix D” to “See Handbook Appendix D”.
7. Section 3.5.3, third paragraph, first sentence: Recommend changing the “should” to “shall” to match the third paragraph of section 3.5.2.3.
8. Section 3.5.3: Recommend adding information on actions taken after reviewing the State response.
9. Section 4.2.1.1: Recommend adding information in the section on regulating uranium recovery.
10. Section 4.2.2: Recommend ensuring that this section meets the definition of significant transboundary implications that is being developed by the Adequacy and Compatibility Working Group.
11. Sections 4.2.2.1 and 4.2.3.1: Recommend deleting these sections because all of the State’s regulations are submitted as part of the application process.

12. Section 4.2.4.2.b: It is unclear why the State regulations would need to disclaim any intent to regulate materials or activities over which NRC retains jurisdiction. The Agreement and the State's statutes both define the State's authority. Recommend deleting this requirement.
13. Section 4.3, first sentence: Recommend changing this sentence to read: "The review team should be able to conclude that the State's technical licensing procedures will be thorough, complete, consistent, and of acceptable technical quality with health and safety issues properly addressed".
14. Section 4.3.1.2: Recommend including requirements for pre-licensing verification and ensuring enhanced security requirements are in place prior to issuing a license.
15. Section 4.3.6.1: Recommend adding licensee renewal notification in the list of required elements.
16. Section 4.4.1.d: The term "technical performance of inspections" here is redundant to the lead sentence "technical inspection procedure". Recommend changing to "performing an inspection, including performance based criteria".
17. Section 4.4.1.2: Recommend adding information about Low Level Radioactive Waste to this section.
18. Appendix A: Recommend deleting transboundary requirements from the table.

We appreciate the chance to comment on this subject, and stand ready to answer any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "Michael Welling". The signature is written in a cursive, slightly slanted style.

Michael Welling
OAS Chair
Director Radioactive Materials Program
Virginia Dept of Health
109 Governor St, Room 730
Richmond, VA 23219