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Agency of Human Services

November 6, 2018

Daniel Collins, Director
Division of Materials Safety, Security, State and Tribal Programs
Office of Nuclear Material Safety and Safeguards
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Collins,

This document addresses the comments made in a letter of December 18, 2017 from Andrea Kock and its enclosure entitled *Comments on Section 4.3 and 4.4 of the Draft Vermont Application for an Agreement Dated September 15, 2017 (ML17346A705)*. To facilitate an efficient review, it addresses each general comment as numbered in the enclosure.

This is the first of two letters that address the Nuclear Regulatory Commission (NRC) comments on the Draft Application for an Agreement Dated September 15, 2017. A second letter will address NRC comments on Sections 4.5, 4.6 and 4.7. Each of the letters is attached to the related revised sections of the Draft Application for an Agreement. NRC completed its review of the second draft of Sections 4.1 and 4.2 of the Vermont Draft Application to Become an Agreement State on August 7, 2018, and staff said that portion of the Application was complete.

The revisions we made benefitted from the thorough review of NRC staff and multiple conference calls with NRC staff. The staff here in Vermont that addressed the NRC comments and prepared the revised sections of the Draft Application for an Agreement appreciate the extensive time, obvious effort and thorough attention of the NRC staff involved.

Please contact me if I can be of further assistance with this.

Thank you.



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Cc: Duncan White, US NRC
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Attachment: Address of NRC Comments on Sections 4.3 and 4.4 of the Draft Vermont
Application for an Agreement

Address of NRC Comments on Sections 4.3 and 4.4 of the Draft Vermont Application for an Agreement

The NRC comments of December 18, 2017 were addressed by the following team of Vermont Department of Health staff:

William Irwin, Radiation Control Program Director
Francis O'Neill, Radioactive Materials Program Manager
Littia Mann, X-Ray and Mammography Program Manager
Lillian Colasurdo, Staff Attorney
David Englander, Senior Policy and Legal Advisor

The staff addressed ten general comments.

General Comments

1. Please ensure that your application is spell checked and proofread prior to its resubmission. We note that in several sections the descriptions, procedures, and guidance documents are missing words, bullets, sentences, and paragraphs. You may also insert an abbreviations and acronyms page in the beginning of your submission to identify all the acronyms and abbreviations used. Otherwise, please define each acronym or abbreviation at its first use.

This revision of the Draft Application is a complete rewrite, relying more on reference to NRC procedures and other guidance documents rather than to rewritten versions of the NRC documents. The Vermont staff made multiple efforts to ensure the editorial quality of the application. We also included a list of acronyms and abbreviations.

2. Throughout your submission you reference a specific citation in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 30, but fail to provide the appropriate counterpart in Parts 40 and 70. Since the Agreement will also include authority over source material and less-than-critical-mass quantities of special nuclear material, it is important to make the correct references for all types of material pertinent to your request (i.e., byproduct, source and special nuclear material). Please verify that you are citing the correct citation and the appropriate counterpart.

Section 4.3 on Licensing Program Elements and Section 4.4 on Inspection Program Elements are appropriate for all licensing authority to be assumed by Vermont with the NRC Agreement.

3. Throughout your submission, we found errors with the units of measurements. For example, we found a leak test threshold was listed as 0.005 Ci. The correct threshold is 0.005 microcuries. Please review your submission to assure the correct nomenclature is listed.

This revision of the Draft Application is a complete rewrite, relying more on reference to NRC procedures and other guidance documents rather than to rewritten versions of the NRC documents. The Vermont staff made multiple efforts to ensure the editorial quality of the application.

4. Since Vermont is not assuming authority to evaluate sealed sources and devices (SS&D), please remove any references for the review of SS&D for commercial distribution. Any Agreement State can approve the custom use of a single device that is otherwise not approved under 10 CFR 32.210 or a compatible Agreement State regulation. A broad scope licensee can also use an SS&D that is not approved under 32.210 or a compatible Agreement State regulation. Additional guidance on custom SS&D reviews can be found in NUREG-1556, Volume 3, revision 2, Chapter 5.1.3.

There should be no references to the review of sealed sources and devices (SS&D) in the revised Sections 4.3 Licensing Program Elements and 4.4 Inspection Program Elements.

5. In your application, you address proprietary information, but you do not address privacy records, personally-identifiable information, security-related information, and other sensitive information (e.g., attorney client privilege, allegations, etc.). Please revise your submittal to address how under the proposed program the State will protect, mark, redact, handle, and store these various types of information. Your response should be consistent with State requirements.

We have addressed privacy records, personally-identifiable information, security-related information and other sensitive information including attorney client privilege and allegations in the revised of Sections 4.3 on Licensing Program Elements and 4.4 On Inspection Program Elements.

6. The licensing guidance is not clear on what the licensee or applicant will need to submit for their license application. Throughout several of the licensing guides, the guides fail to include a "Response from Applicant" section or similar request that clearly indicates the desired information the applicant or licensee needs to provide.

This revision of the Draft Application is a complete rewrite, relying more on reference to NRC procedures and other guidance documents rather than to rewritten versions of the NRC documents. As such applicants will use guidance from the NRC that clearly describes what the licensee or applicant needs to submit for their license application. Vermont has its own procedures and forms for the administration of licensing activities that also describe the expected response from applicants.

7. The inspection guidance provides checklists in addition to inspection procedures. The inspection procedures appear to be missing words, phrases, sentences, bullets, and paragraphs. The inspection checklists were incomplete and should be revised.

This revision of the Draft Application is a complete rewrite, relying more on reference to NRC procedures and other guidance documents rather than to rewritten versions of the NRC documents. The Vermont staff made multiple efforts to ensure the editorial quality of the application.

8. The NRC uses program codes to dictate the inspection frequency and fee schedule for licensees. Agreement States are not required to use these program codes. If you chose to use our program codes, we noted a number of errors in their use in the application. A list of the program codes currently associated with the licensees in your State will be provided under separate cover.

This revision of the Draft Application is a complete rewrite, relying more on reference to NRC procedures and other guidance documents rather than to rewritten versions of the NRC documents. This includes reference to Enclosure 1 Inspection Priority Codes Assigned to Program Codes from NRC Inspection Manual Chapter 2800.

9. Your licensing guidance is missing information on the handling of possession-only licensees. If a licensee wants to retain their license, but has no projected work, they may request their license be classified as a storage-only license. The license reviewer will review the license and change the expiration date to 2 years from the request by the licensee. If the licensee does not request to change the license back to an active status within two years, the decommissioning timeliness rule applies and the licensee must begin decommissioning in accordance with 10 CFR 30.36. If you plan to follow this process, please include it in your licensing guidance.

Licensing guidance in this revision of Draft Application Section 4.3 Licensing Program Elements addresses possession-only licensees. See section 3.5 of RMPP 1.1 Review of an Initial Application for License or an Amendment Request for this information.

10. You included a licensing procedure for underwater pool irradiators (LP-207) and two inspection procedures for well logging programs (IP-161) and irradiator programs (IP-401). You do not have any pool irradiators in the State that would require licensing or inspection guidance. We also checked the reciprocity records for the last five years and could not find any requests for well logging. Since these license types currently do not operate in Vermont, you do not have to resubmit LP-207, IP-401 or IP-161 with your application. If these licenses types operate in your state at a later time, you can develop the appropriate guidance and procedures at that time.

This revision of the Draft Application is a complete rewrite, relying more on reference to NRC procedures and other guidance documents rather than to rewritten versions of the NRC documents. There are no longer procedures on underwater pool irradiators or well-logging.