



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**  
WASHINGTON, D.C. 20555-0001

December 18, 2017

William Irwin, Sc.D., CHP  
Chief, Office of Radiological Health  
Department of Health  
108 Cherry Street  
PO Box 70  
Burlington, VT 05402

Dear Dr. Irwin:

We have finished our review of Vermont's draft application to become an Agreement State in accordance with Section 274b of the Atomic Energy Act, as amended. A U.S. Nuclear Regulatory Commission (NRC) interoffice review team conducted the review following the guidance in NRC Commission Policy Statement "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement" that provides criteria for new agreements, and the NRC Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-700 "Processing an Agreement" and its Handbook. The review was conducted to determine whether the proposed Vermont Agreement State Program (hereafter, the Program) met the evaluation criteria for an Agreement Program that is adequate to protect public health and safety and compatible with NRC requirements. The review team found that the request provided information on all major program elements. However, as commented in Enclosure 1, the review team identified a number of areas where additional information is needed in order for NRC to complete its review. We request a response to the comments.

For your reference, the comments are correlated to the pertinent sections of your request and the pertinent sections of the SA-700 Handbook. As previously discussed with Duncan White of my staff and you, our comments on the draft application will be provided to the State in multiple letters; this is the second letter. This letter provides our comments to Subsections 4.3 (Licensing Program Elements) and 4.4 (Inspection Program Elements) of the draft application. Another letter will be provided addressing our remaining comments.

We would welcome an opportunity to meet with you to discuss our comments and answer any questions concerning our review, the information needed, or steps involved in processing the Agreement. Please contact Paul Michalak at (301) 415-5804, or Duncan White, team leader for the Vermont Agreement Review Team, at (301) 415-2598 or [Duncan.White@nrc.gov](mailto:Duncan.White@nrc.gov) to arrange a meeting or conference call.

Sincerely,

**/RA/**

**KWilliams for AKock**

Andrea L. Kock, Acting Director  
Division of Material Safety, State, Tribal  
and Rulemaking Programs  
Office of Nuclear Material Safety  
and Safeguards

Enclosure:  
Comments on Sections 4.3 and 4.4 of  
The Draft Vermont Application for an  
Agreement Dated September 15, 2017

SUBJECT: RESPONSE LETTER WITH COMMENTS ON SECTION 4.3 AND 4.4 VERMONT  
DRAFT AGREEMENT APPLICATION DATE: DECEMBER 18, 2017

DISTRIBUTION:

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**ML17346A705**

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<b>DATE</b>	12/8/17	12/12/17	12/14/17	12/18/17

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**Comments on Sections 4.3 and 4.4 of the Draft Vermont Application for an Agreement  
Dated September 15, 2017**

The draft application was reviewed by the following team of U.S. Nuclear Regulatory Commission (NRC) staff:

Duncan White, Team Leader and Technical Reviewer, Office of Nuclear Material Safety and Safeguards (NMSS)

Tison Campbell, Legal Reviewer, Office of General Counsel (OGC)

Monica Ford, Technical Reviewer, Region I

Robert Gallagher, Technical Reviewer, Region I

Kathleen Modes, Technical Reviewer, NMSS

Lizette Roldan-Otero, Technical Reviewer, NMSS

Laura Shrum, Legal Reviewer, OGC

Duane White, Technical Reviewer, Office of Nuclear Security and Incident Response

This letter addresses the review team's comments in two areas: Licensing Program and Inspection Program Elements. The review team identified a large number of comments throughout the documents in these two areas submitted for our review. A majority of these comments involve the omission of information. We believe that the most efficient use of time for the review team to convey our comments and the State to provide feedback and a responsive reply will be to hold a series of webinars to review the documents together. Following these webinars, you will need to resubmit your licensing and inspection program elements.

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.
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.
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.
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

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Agreement State regulation. Additional guidance on custom SS&D reviews can be found in NUREG-1556, Volume 3, revision 2, Chapter 5.1.3.

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.
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.
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.
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.
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.
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 license types operate in your state at a later time, you can develop the appropriate guidance and procedures at that time.