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August 3, 2017

Lizette Roldán-Otero, Ph.D.  
Office of Nuclear Materials Safety and Safeguards  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555

RE: OPPORTUNITY TO COMMENT ON DRAFT REVISION TO THE PRE-LICENSING GUIDANCE (RCPD-17-005)

Dear Dr. Roldán-Otero:

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

#### General comments

Criminal history checks: If the license reviewer is unable to independently verify information contained in the license application or during the pre-licensing site visit, why not just void the application? Why are reviewers required to go the extra step of performing a criminal history check?

1. The pre-licensing guidance does not explain why this step is necessary or desirable. If an applicant can't make their case using pathways already provided, they aren't ready to have a license and shouldn't be granted one. There should be an option to void the application without pursuing a criminal history check.
2. A criminal history check could be a good option but it is harder to justify as a requirement.
3. The guidance does not address how to evaluate the criminal history check. For a large company, who should the criminal history check be for? The CEO? The RSO? Authorized users?

#### Specific Comments

1. Does a "No" answer to any of the sub-questions in Step 1, Question 2, mean that the Question should have a "no" in the last column?
2. If Step 1 is being implemented for transfer of control, can a business registration for a "holding company" or company that simply buys other companies, and is not involved in operations of the license, be a basis of confidence? (see attached business registration as example).

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*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*

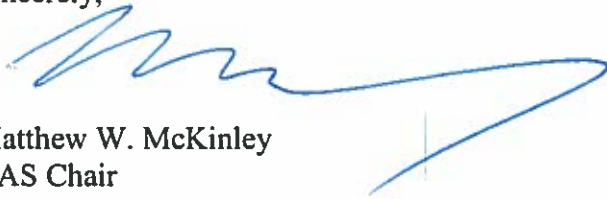
3. Step 2 (page 3): The steps should be listed in a more logical order. For example, Section 03.03 (page 15) says that the pre-licensing site visit should be the final consideration in Step 2, yet it is listed as Item L, with several steps after it.
4. On the Step 2 checklist, Criteria P, Q and R are confusing. Is Criterion P actually a heading for Steps Q and R? Items P, Q and R should be visually separated from the rest of the checklist. On page 11 (flowchart) and page 14 (03.02c), reviewers are instructed only to use Items P, Q and R if additional evaluation of the applicant is warranted (i.e., if the basis for confidence in Step 2 is "NO"). This is not clear from the way the checklist is currently constructed. Items P, Q and R should go under the Summary box?
5. Typo on Attachment 2, "A" – second bullet – should be "facilities"
6. "Attachment 2", Criteria "P" (page 19) indicates an application should be voided if additional check of applicant information is needed. Is that correct? If so, it should be indicated in the Step 2 checklist.
7. When are applicants notified that NRC may be doing a background check on them? Do all Agreement States have the authority to conduct criminal history checks of applicants?
8. Pages 12-13 state three times within one page that the good faith presumption should be suspended until the license reviewer can establish a basis for confidence that the material will be used as intended. Sufficient attention is drawn to this matter in the box at the beginning of 03.02. Delete from 03.01b and 03.02a.
9. 03.02c (page 14) instructs reviewers to void the application if the reviewer needs to use screening criteria P "Additional Check of Applicant Information." This does not match the flowchart presented on page 11.
10. The last sentence of 03.02c does not obviously connect with the rest of the paragraph. Recommend deleting this sentence. Move paragraph 03.02c after 03.02f.
11. 03.03 (page 15) Revise 4th line to say "All storage and use locations should be visited..." to match the guidance in 03.02e as well as on pages 20 and 21.
12. Please consider this suggested question #6 for Step 1. This could help avoid needless visits to existing licensees that are transferring control with no changes to the program at all:

*Is this a request for written consent to a transfer of stock or other assets only and authority over the licensed daily activities has not changed? 1) Does the information requested in Appendix E of NUREG-1556 Volume 15, Rev. 1, indicate that the radiation safety and training program, facilities, radioactive material and equipment, and the Radiation Safety Officer will be unaffected by the transfer? 2) Has the information been confirmed in writing by the current Administrator or RSO?*

If the answer is "yes", there is no need to go to Step 2 and conduct the Pre-approval visit.

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

Sincerely,



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