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July 21, 2020

George Tartal
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Tartal:

The OAS Executive Board (Board) appreciates the opportunity to comment on the draft Federal Register notice for the proposed rule titled “Harmonization of Transportation Safety Requirements with IAEA Standards.”

The Board believes that this federal register notice was not written to provide clarity of agreement state responsibility. The notice states:

*The NRC is proposing to revise the compatibility category designations for the reporting requirements in § 71.95 and the regulations containing QAP requirements for those Agreement States that have licensees located within their States who use NRC-approved Type B packages, **other than for industrial radiography**, to ship Type B quantities of radioactive material. This will provide those Agreement States the regulatory authority to approve, inspect, and enforce the appropriate QAP requirements for those licensees that use Type B packages, **other than for industrial radiography use**.*

There is no distinction between the revision in § 71.95 and those pertaining to the QAP requirements regarding industrial radiography Type B packages. Nor was the STC letter clear in its description of responsibilities of Agreement States regarding industrial radiography Type B packages.

Nevertheless, in the revision of the compatibility of § 71.95 from Compatibility D to Compatibility C, the NRC proposes to require licensees who use Type B packages, **including** industrial radiographers, to report to Agreement States 1) instances in which there is a significant reduction in the effectiveness of any NRC-approved Type B or Type AF packaging during use; or 2) details of any defects with safety significance in any NRC-approved Type B or fissile material packaging, after first use. Also required is a report when conditions of the certificate of compliance were not followed and a myriad of requirements on engineering defects if applicable.

The Board believes as the federal register notice is currently written, with only the notification going to the NRC, that simply changing the compatibility will result in states simply replacing

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, Vermont, Virginia, Washington, Wisconsin, Wyoming

NRC with their state organization, especially for those states that adopt by reference. This will result in language so that only Agreement States will be notified. Agreement States do not approve Certificates of Compliance for Type B packages. The Board strongly believes that these reports should be sent to the NRC as well because it is the NRC that can provide a comprehensive evaluation of these reports. Also, it is the NRC that should send out a notice of defect to the manufacturer of a defective Type B package, and subsequently require the manufacturer to disseminate this information to all its users without relying on the Agreement State to submit the report to the NRC.

We appreciate the opportunity to express our views and stand ready to answer any questions you may have.

Sincerely,

A handwritten signature in cursive script that reads "Terry W. Derstine".

Terry Derstine, Chair
Organization of Agreement States
Radiation Protection Program Manager
Department of Environmental Protection
Southeast Regional Office
2 East Main Street
Norristown, PA 19401