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March 11, 2019

Duncan White  
Office of Nuclear Materials Safety and Safeguards  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555

Dear Mr. White:

The Organization of Agreement States (OAS) Executive Board (Board) reviewed the Office of Nuclear Materials Safety and Safeguards Procedure entitled *Oversight of the National Materials Program SA-10* and offers the following comments. To facilitate your review, the Board is also providing a marked-up copy of SA-10.

1. In keeping with the idea of equal partners, the title is proposed to be changed to include the Agreement States in Oversight of the National Material Program (NMP).
2. The layout of the sections is confusing. The Definition, Mission, Goal and Vision of the NMP are discussed before the background on the Office of the Inspector General (OIG) audit of oversight of the NMP. It is not clear if the definition, mission, goal and vision are new or if they are the result of the work of the National Material Program Working Group (NMPWG) from 1999-2005. If they were developed by the NMPWG and the OIG audit found that they were not understood consistently, then perhaps they should be revised. Either way, they should be discussed after the background section on the OIG audit so it is clear that these are new.
3. Section II. A. 1. and 2. The way in which the document is written, the Board has the impression that the NRC expects Agreement States to contribute the same amount of resources to the NMP as the NRC on regulatory priorities. It is unclear what regulatory priorities entail. From the Agreement State perspective, the amount of resources available for regulatory guidance development, procedure development, licensing guidance, etc. is limited as almost all staff are tasked with licensing and inspections in State programs. This theme is also described in Section III. B. 3. which states that one of the challenges of the NMP is the ability of Agreement States to share a greater proportional responsibility for development and maintenance of regulatory products (e.g. guidance documents, emerging regulatory issues). Sections V. C. 7. and D. 3. also imply this expectation of more contributions. We agree that Agreement States need to contribute to the NMP and our goal is to forge a better relationship where more states contribute. We will work on communicating the benefits of contributing to the NMP with our membership and encourage greater participation, but because of constraints,

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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, Wyoming*

we may not always be able to accommodate a greater contribution in certain areas. We would appreciate changing the language to reflect this reality,

4. Section II. C. 1. The Board proposes to amend this section to state “Regulatory priorities should be established and periodically reviewed through a collaborative process involving both the NRC and Agreement States in which general agreement is reached. This includes the introduction of suggestions for new or amended rules.” The Board believes that since OAS is in the materials “business line” that the OAS should be able to suggest regulatory changes through the Common Prioritization of Rulemaking to the NRC without the requirement of submitting a petition for rulemaking.

5. Section IV.A. 1. The NRC program referred to here should be explained. Is it the Division of Materials Safety, Security, State and Tribal Programs (MSST) or something else?

6. Section IV. A. 4. In their report, the OIG cited the high turnover rate of among NRC senior managers associated with Agreement State program (especially the MSST Division Director) as the main reason that an NRC NMP Champion is needed. The Board suggests that the NRC re-evaluate the decision to appoint the Division Director of MSST as the NRC Champion and consider other alternatives. The Board believes that an alternate Champion would require direct access to the MSST Division Director to be effective.

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

Sincerely,



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Division Director  
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Enclosure