



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

November 2, 2022

ALL AGREEMENT STATES, CONNECTICUT, INDIANA

SHARING NRC's RESPONSE TO A TECHNICAL ASSISTANCE REQUEST FROM THE STATE OF WISCONSIN ABOUT JURISDICTION OVER ITS LICENSEES' TYPE B PACKAGE QUALITY ASSURANCE PROGRAM (STC-22-062)

**Purpose:** To provide the National Materials Program with the U.S. Nuclear Regulatory Commission's (NRC's) response to a Technical Assistance Request from the State of Wisconsin regarding jurisdiction over its licensees' Type B package quality assurance (QA) programs, as described in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 71.17 and 10 CFR 71, subpart H.

**Background:** Under 10 CFR 71.17, the NRC grants a general license to any NRC licensee to transport, or deliver for transport, licensed material in an NRC-approved package if the licensee has an approved QA program which meets the requirements of 10 CFR Part 71, subpart H. QA programs for Type B packages can be either "full-scope" (including design fabrication, and modification) or "user-only." Although the NRC is the sole regulatory authority for "full-scope" QA programs, the Agreement States regulate "user-only" Type B package QA programs for use within their jurisdiction (see STC-17-060 (Agencywide Documents Access and Management System (ADAMS) Accession No. Number ML17213A844) for additional information regarding this regulatory authority).

**Discussion:** Wisconsin has a Wisconsin licensee with a Type B package. This licensee will be purchasing radioactive material from another licensee in another State; but the transport of the radioactive material would use the Wisconsin's licensee's Type B package. Wisconsin had several questions about the regulatory jurisdiction. The NRC provided our response in a letter dated March 11, 2022 (ML22245A101). This response has been made publicly available.

**Conclusion:** Certain regulations in 10 CFR Part 71 that contain quality assurance program (QAP) review criteria (e.g., §§ 71.109, 71.111, 71.113, 71.115, 71.117, 71.119, 71.121, 71.123, and 71.125) are designated as Compatibility Category NRC and cannot be adopted by the Agreement States. The NRC is proposing to address these compatibility issues in a current rulemaking so that the Agreement States can adopt compatible QAP regulations that would require their licensees to follow these QAP criteria, and allow Agreement States to approve, inspect, and enforce their licensees' QAPs. Regulatory Guide (RG) 7.10 contains specific guidance for reviewing QAPs based on the criteria in the above regulations. Until the Part 71 rulemaking is completed to change the compatibility categories, the Agreement States may review their licensees' QAPs using the guidance in RG 7.10. When an Agreement State approves a QAP that meets RG 7.10 guidance, the Agreement State may incorporate the QAP into the license, which would make the QAP enforceable by the Agreement State.

If you have any questions regarding this correspondence, please contact Tomeka Terry, Project Manager, Inspection and Oversight Branch, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards.

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Signed by Williams, Kevin  
on 11/02/22

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STC-22-062 NRC's Response to a Technical Assistance Request From The State of Wisconsin about Jurisdiction over its Licensees' Type B Package Quality Assurance Program DATE November 3, 2022

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