ALL AGREEMENT STATES, VERMONT, WYOMING

REQUEST FOR INFORMATION REGARDING STAFF TRAINING AND THE NUMBER OF 10 CFR PART 71 TYPE B PACKAGE USERS, OTHER THAN FOR INDUSTRIAL RADIOGRAPHY, LOCATED IN THE AGREEMENT STATES (RCPD-18-008)

Purpose: The NRC staff requests that Agreement States provide answers to the questions in the “Discussion” section. These questions concern Agreement State staff training and the number of Agreement State licensees who are Type B package users, other than industrial radiography licensees, located in their States. This information will be used to inform the NRC of the urgency of the need for rulemaking in order to change the compatibility categories of those Part 71 provisions that contain QAP criteria. Currently Agreement States may not adopt these provisions because they are designated as Compatibility Category “NRC.”1

Background: On June 12, 2015, the NRC published the final rule, “Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements” (80 FR 33987). The Agreement States were notified of this final rule in a letter dated June 23, 2015, “Revision of the Chronology of the U.S. Nuclear Regulatory Commission Amendments Including Summary of Change Document for Revisions To Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements, 10 CFR Part 71” (STC-15-044). Upon submitting their proposed Part 71 equivalent regulations for a NRC compatibility review, some Agreement States submitted questions to the Office of Nuclear Material Safety and Safeguards (NMSS) staff regarding their authority and responsibilities under 71.17 and 71.101(c) for approving their general licensees’ QAPs. In response to these questions, the NRC issued a letter dated August 15, 2017, “Clarification of Title 10 of the Code of Federal Regulations Part 71 Requirements Identified In Regulation Amendment Tracking System Identification Number (RATS ID 2015-3) (STC-17-060).” This letter reminded Agreement States that they are the regulatory authority responsible for approving their licensees’ QAPs, not the NRC.

Discussion: On September 27, 2017, NMSS staff held a webinar to train the Agreement States on the QAP review process. During the webinar, participants recognized that many of the regulations that contain QAP review criteria (i.e., 10 CFR 71.107, 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. NMSS staff agreed that a proper QAP review cannot be completed without addressing many of these criteria. In order to allow the Agreement States to adopt compatible regulations that would require licensees to follow these QAP criteria, the NRC would need to complete a rulemaking to change the compatibility categories of these regulations.

1 See NMSS States Agreement (SA) Procedure SA-200, Compatibility Categories, and Health and Safety Identification for NRC Regulations and Other Program Elements.
The NMSS staff requests responses to the following questions to inform us of the number of QAPs that Agreement States expect to review and thus the urgency of the need for NRC rulemaking:

1) Please provide the number of licensees in your State that are users of Type B packages, other than for industrial radiography, i.e., those that are authorized for greater than the minimum quantities of radioactive material that require a Type B package as specified in 10 CFR Part 71, Appendix A;

2) Please indicate if your program has received or reviewed any QAPs from these licensees (e.g., industrial irradiator licensees, research or academic licensees, etc.) within the past 5 years, if so, how many?

3) Please indicate if you currently have trained staff to perform QAP reviews and subsequent inspections.

We request that this information be provided by November 30, 2018 to the contact person listed below. This comment period was coordinated with the Organization of Agreement States.

If you have any questions on this correspondence, please contact me at (301) 415-3340, or the individual named below:

POINT OF CONTACT: Michelle Beardsley  E-MAIL: Michelle.Beardsley@nrc.gov
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Daniel S. Collins, Director
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2 This information request has been approved by OMB 3150-0029 expiration 1/31/2019. The estimated burden per response to comply with this voluntary collection is approximately 16 hours. Send comments regarding the burden estimate to the Information Services Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by e-mail to infocollects.resource@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202 (3150-0029), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.