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S. Peachant

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# DEPARTMENT OF NUCLEAR SAFETY

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February 7, 2000

Sally L. Merchant  
U.S. Nuclear Regulatory Commission  
Mail Stop TWFN 9-F-31  
Washington, D.C. 20555-0001

Re: Draft NUREG-1556, Volume 16, Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Licenses Authorizing Distribution to General Licensees, September 1999

Dear Ms. Merchant:

The Illinois Department of Nuclear Safety hereby submits the following comments on the above-identified draft NUREG. The document is designed to offer detailed instruction on how to obtain a specific license to distribute generally licensed products. It also provides guidance to the NRC staff for reviewing applications for licenses to distribute generally licensed items. NRC is developing the NUREG concurrently with a rulemaking entitled "Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material" (10 CFR Parts 30, 31, 32, 170, and 171, published on July 26, 1999, at 64 FR 40295).

In addition to providing instructions pertaining to specific distribution licenses, the draft NUREG provides an overview of the regulatory requirements for use, possession, and registration of generally licensed devices. This guidance, which is found in Appendix K, should prove useful to both general licensees and new staff members of NRC and the agreement states.

Although Appendix K contains valuable information about general licensing, the Department of Nuclear Safety believes that certain parts of the document require clarification. In particular, Appendix K should more explicitly identify the circumstances under which an agreement state licensee may use a portable device in an area of NRC jurisdiction. We understand that NRC intends to approve any device transfer that meets the requirements of 10 CFR 31(b)(2), regardless of where the transfer occurred. This

would include a transfer that occurred in an agreement state. NRC would therefore permit an agreement state licensee to use a device at a temporary job site within NRC jurisdiction without involving the vendor of the device in the movement across the jurisdictional boundary.

The Department of Nuclear Safety recommends that NRC clarify its position on this topic by revising Appendix K, Item 9. For example, the final two sentences could be replaced with a paragraph such as the following:

A general licensee that obtained a portable device in an agreement state may use the device at temporary job sites within NRC jurisdiction providing the device was obtained under circumstances equivalent to those in 10 CFR 31(b)(2). Because there is no reciprocity provision for general licensees, you will be subject to the provisions of 10 CFR 31.5 when you possess a device in an area of NRC jurisdiction. You should contact the appropriate NRC regional office before bringing a device into NRC jurisdiction. See the map of regional offices at the end of this appendix.

We also recommend that NRC review Appendix K to ensure that the language doesn't "talk over the heads" of general licensees. For example, the reference to transuranic radionuclides in Item 6 would be clearer if it included curium-244 and defined the term "transuranic." In our experience, americium-241 and curium-244 are the only transuranic nuclides commonly distributed to general licensees. Since this is the case, the bottom of Item 9 could be revised as follows:

or 37 MBq (1 mCi) of americium-241, curium-244, or other transuranic radioisotope. (A transuranic radioisotope has an atomic number greater than 92.)

In addition to limiting the technical complexity of Appendix K, we recommend that NRC review the appendix for general readability. Item 5, for example, reminds the reader correctly that some devices may be distributed to both general and specific licensees. It does this by stating that "other similar devices have not been authorized for general license distribution." To make this concept clearer, the sentence could be revised as follows:

Possession or use of other similar devices may require a specific license.

As mentioned previously, the bulk of this draft NUREG is devoted to detailed instructions on how to obtain a specific license to distribute generally licensed products. NRC regrettably refers to such a specific license as a "general distribution" license. This unfortunate name may be the partial source of a problem that we have experienced in Illinois.

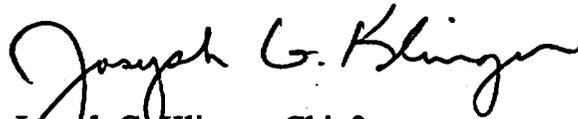
On occasion, some of our licensees have expressed the conviction that they possess devices under a vendor's general license. After resisting registration and

payment of fees, some have required considerable convincing to accept that they and not the vendor are the general licensee. We have sometimes traced this misconception to confusion on the part of vendor representatives who mistakenly believe their companies hold "general licenses" for their customers.

To help minimize this confusion, the Illinois Department of Nuclear Safety recommends that NRC consider removing the word "general" from the description of specific licenses that permit distribution of generally licensed products. A possible change might be to refer to these as "G-distribution" licenses; a term that would be analogous to existing "E-distribution" licenses for exempt products.

Thank you for the opportunity to comment on this draft NUREG. If you have questions, please contact me at 217-785-9930.

Sincerely,



Joseph G. Klinger, Chief  
Division of Radioactive Materials

JGK:jme

cc: James Lynch, State Agreements Officer