

EDO Principal Correspondence Control

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FINAL REPLY:

William Passetti
Florida Department of Health

TO:

Chairman Diaz

FOR SIGNATURE OF :

** PRI **

CRC NO: 05-0120

Chairman

DESC:

ROUTING:

Concerns Regarding NRC's Generally Licensed (GL)
Device Rule

Reyes
Virgilio
Kane
Merschhoff
Silber
Dean
Burns/Cyr, OGC
Strosnider, NMSS

DATE: 03/08/05

ASSIGNED TO:

CONTACT:

STP

Lohaus

SPECIAL INSTRUCTIONS OR REMARKS:

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AUTHOR: William Passetti
AFFILIATION: FL
ADDRESSEE: Nils Diaz
SUBJECT: Concerns regarding NRC's Generally Licensed (GL) Device Rule

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February 25, 2005

Chairman Diaz
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville, MD 20852-2738
Washington, DC 20555

Dear Chairman Diaz:

This letter is to provide our concerns regarding NRC's Generally Licensed (GL) Device Rule, in particular the assigned compatibility level.

Florida has had a GL program requiring registration of all GL sources, with the exception of some tritium exit signs, for over 20 years. The program includes source registration, fees, annual inventories and inspections. This program was put in place for many reasons, among them; to protect the public's health and safety, protect the environment and keep sources out of the scrap metal and other undesirable streams.

Florida has been one of several states that have encouraged the NRC over the years to adopt a similar program. We have received numerous comments during several program reviews, that this was an excellent program that could be looked to by other states and the NRC.

It was very disturbing to learn at the OAS meeting and from the October 14, 2004 letter to Maine's radiation control program that the Commission changed the level of compatibility for the GL rule to a B, against the recommendations of the working group and the Agreement States. If this decision is not changed it would require us to reduce our GL program and lesson protection of the public's health and safety to be compatible with certain NRC rules.

The main reason given for this change was that there are "significant transboundary implications." States and the NRC have had different GL requirements for years with little discussion of transboundary problems. What are the problems if Florida were to continue to register smaller quantities or different radionuclides than those in NRC's rule? From the reading of the rule it appears that manufacturers and distributors would still be required to notify Florida of all GL sources sent to our state. Any further actions concerning registration etc., would be between the state and individuals in Florida.

To override our ability to regulate health and safety issues based on a questionable, at best, transboundary argument is not appropriate. It doesn't consider multi-million dollar source melts of smaller sources, as experienced recently in Florida, and security issues of controlling large numbers of smaller sources.

Chairman Diaz
Page Two
February 25, 2005

It is not clear what options are available to the Commission to change this compatibility decision but we would ask that a change be considered to allow Florida to continue its longstanding GL program that includes smaller quantities and different radionuclides than those established in 31.5(c)(13). Hopefully this problem was an unintended consequence of the Commission's decision with regards to GL programs like Florida's that can be quickly rectified.

Thank you for considering our views on this important issue. If you have any questions, please feel free to contact me at (850) 245-4266.

Sincerely,

A handwritten signature in black ink, reading "William A. Passetti". The signature is written in a cursive style with a large, stylized "W" and "P".

William A. Passetti, Chief
Bureau of Radiation Control
Florida Department of Health