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March 5, 2006

Annette L. Vietti-Cook, Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attn: Rulemakings and Adjudications Staff

RE: Comments on OAS Letter to
the NRC Dated June 27, 2005

Dear Ms. Vietti-Cook:

Enclosed please find my comments on the Organization of Agreement States (OAS) letter to the NRC dated June 27, 2005.

I disagree with the proposal of the OAS to revise the compatibility of 10 CFR 31.6 from "B" to "C". In the petition to the NRC from the OAS, the OAS states that the compatibility change;

"...removes the ability of Agreement States to directly track the movement of many individuals and companies servicing generally licensed devices and thus indirectly verify the location of there devices."

Many states have adopted equivalent provisions to 10 CFR 31.6 in their regulations, however as a matter of policy still require reciprocity for the servicing of generally licensed devices even if there is no specifically licensed material or activities involved. The purpose of this policy is to track GL servicing vendors in the same manner as specific licensees working under reciprocity. I believe this policy is inconsistent with the intent of the regulations, which was to make it easier for vendors to service GL devices.

I believe there is an alternative way to handle the concern over tracking GL devices being serviced. Through the issuance of quarterly reports Agreement States should know where generally licensed devices sold in their state are located. Sometime devices may be sold to another organization without knowledge of the distributor. In these cases it is beneficial for the vendor providing service to provide a report to the NRC or an Agreement State, as is required in many states' regulations. I propose that 10 CFR 31.6

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be amended to include the requirement for the servicing vendor to report to the NRC or an Agreement State the details concerning all devices being installed or transferred in their jurisdiction within 30 days, as described in section C 90 a ii(1) of the Suggested State Regulations of the Conference of Radiation Control Program Directors (CRCPD).

Some states have a service provider registration program which allows them to know which vendors are operating in their state. Though this program does not track the activities of vendors in real time, it is a reasonable alternative to the policy of requiring reciprocity for all activities.

I agree with the position of the OAS that the decision by the NRC to revise the compatibility of 10 CFR 31.5 from "D" to "B" is a step backward. To not permit the current GL Device Registration Programs which are broader in scope than the NRC requirements to exist in certain Agreement States (as well as non-Agreement States) reduces the overall control of these devices. There is sufficient evidence that end users of GL devices do not consistently abide by the regulations for leak testing, disposal, etc. I propose that 10 CFR 31.5 be amended to require the registration of all generally licensed devices listed in this section, with the exception of tritium exit signs.

I do not agree with the proposed requirement that all GL devices containing certain radionuclides be required to be specifically licensed. In its statement;

"...The OAS feels that regulation of generally licensed devices containing higher levels of activity should be under more rather than less regulatory oversight to further enhance the accountability and security of these devices".,

the OAS is breaking with the established procedures for device review conducted during the device approval process. Currently criteria in 10 CFR 32.51 is used to determine if a particular device warrants being specifically licensed or generally. These criteria take into account additional factors than the activity of the source and include requirements for prototype testing, potential dose considerations, etc. Although the radionuclides included on the list range from moderate to very high in radiotoxicity, all criteria must be taken into consideration when reviewing the safety of a particular device. The NRC and the Agreement States have been using these criteria for many years and these proposed changes would be inconsistent with established policy.

Thank you for your consideration of my comments. If you have any questions please contact me at 877.323.4179 or e-mail me at schapel@chapelconsulting.com.

Sincerely,



Sean Chapel, B.S.

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President