

September 20, 2007

ALL AGREEMENT STATES, MICHIGAN, NEW JERSEY, PENNSYLVANIA, VIRGINIA

**RESULTS OF THE ORGANIZATION OF AGREEMENT STATES, INC. (OAS) PETITION FOR RULEMAKING (PRM 31-5) 10 CFR 31.5 AND REQUEST FROM STATE OF FLORIDA ON THE GENERAL LICENSE REGULATIONS AND CONTINUED REVIEW OF IMPLEMENTATION UNDER THE INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM (IMPEP) (FSME-07-087)**

**Purpose:** To provide the Agreement States with the August 17, 2007 letters to the OAS and State of Florida on the results of the NRC's evaluation of the Petition for Rulemaking PRM 31-5 and continued review of implementation under IMPEP.

**Contents:** August 17, 2007, Letter to Paul Schmidt, OAS  
August 17, 2007, Letter to William Passetti, State of Florida

**Background:** As noted in the Office of State and Tribal Programs (STP) Letter 05-072, dated September 28, 2005, the U.S. Nuclear Regulatory Commission (NRC) received the OAS Petition for Rulemaking and the State of Florida's request for Compatibility Category change concerning the General Licensing (GL) Device rule in June 2005. The OAS petition proposes revisions to 10 CFR 31 and changes to compatibility category of 10 CFR 31.6 from Compatibility Category "B" to "C." The State of Florida's request proposes a Compatibility Category change to allow Agreement States to have more restrictive criteria for GL devices.

The NRC has completed the evaluation of PRM-31-5 and has decided to grant the petition, in so far as the NRC will address the issues and concerns raised in the petition by incorporating them into the GL Device rulemaking initiated in August 2007 rather than starting a new rulemaking.

**Discussion:** The NRC will continue to hold compatibility determinations in this area in abeyance until the final rule is published and the Agreement State implementation date becomes effective. As noted in STP Letter 05-072, NRC staff will continue to review Agreement State GL Device proposed and final rules but will hold any compatibility determination in abeyance on those rules if the Agreement State's rules meet the essential elements of the NRC's rule, even if the Agreement State's rules are more restrictive than the NRC's rule. For Agreement States without a GL Device rule or with a GL Device rule less restrictive than the NRC rules, the staff will factor this determination into results of the NRC's review of the State's proposed and final rules and the compatibility findings during IMPEP reviews.

**NRC Points of Contact:**

Kathleen N. Schneider      INTERNET: KXS@NRC.GOV  
(301) 415-2320              FAX: (301) 415-3502

Aaron T. McCraw            INTERNET: ATM@NRC.GOV  
(301) 415-1227              FAX: (301) 415-3502

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Janet R. Schlueter, Director  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials  
and Environmental Management Programs

Enclosures:

1. August 17, 2007, Letter to Paul Schmidt, OAS
2. August 17, 2007, Letter to William Passetti, State of Florida

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