



October 14, 2009 (3:44pm)

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October 14, 2009

Mark Shaffer, Director
Division of Intergovernmental Liaison and Rulemaking
Office of Federal and State Materials and Environmental Management Programs
U.S. Nuclear Regulatory Commission
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852

Re: OPPORTUNITY TO COMMENT ON PROPOSED RULE ON "LIMITING THE
QUANTITY OF BYPRODUCT MATERIAL IN A GENERALLY LICENSED DEVICE "
(FSME-09-066)

Dear Mr. Shaffer:

We are pleased to have an opportunity to comment on the new General License (GL) requirements. As you are aware, on June 27, 2005, the Organization of Agreement States (OAS) petitioned the NRC to strengthen the regulation of radioactive materials by requiring a Specific License (SL) for higher-activity devices that are currently available under 10 CFR 31.5. In addition and more importantly, we requested a change to the compatibility of 10 CFR 31.5 from Category "B" to Category "C". Furthermore, the State of Florida also requested similar changes specifically for 10 CFR 31.5(c).(13).(i).

The OAS Executive Board has reviewed the proposed rule and agrees with the changes that will be made to accommodate our petition and that of the State of Florida. We understand and agree with the rationale for setting the lower limit for a Generally Licensed device at 1/10 of the thresholds listed for Category 3 radioactive materials. We also agree with the "B" to "C" compatibility changes. We cannot support the rule changes without their inclusion in the final rule. We agree that current GL devices with activities greater than the proposed threshold limits should be Specifically Licensed. However, for those devices that are below the threshold limits, there is currently a wide array of regulation of those devices. For example, some states require all portable gauges to be specifically licensed, even if they are initially distributed as GL devices. Others simply do not recognize the GL aspect, especially for reciprocity activities.

Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin

Template = SECY-067

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Overall, the OAS does not believe that this would cause any undue hardships. For those States that require a SL or do not recognize the GL, there is little to no confusion when it comes to reciprocity. Another example is during service of these SL & GL devices. Currently we have several facilities that possess both SL & GL devices and it creates an uneven playing field when a GL service company is allowed to come into the state without having to file reciprocity, while a SL service company is required to file reciprocity. In some cases, the GL device may pose a greater radiation hazard than the SL device.

Furthermore, we would also propose that all the appropriate Sealed Source and Device (SS&D) registration certificates be amended to reflect the new SL designations as quickly and efficiently as possible after the final rule is published.

We appreciate your attention to these matters and thank you for the opportunity to comment on them. If you have any further questions on our comments, please contact me by either email or phone as listed below.

Sincerely,



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Rulemaking Comments

From: Seeley, Shawn [Shawn.Seeley@maine.gov]
Sent: Wednesday, October 14, 2009 1:58 PM
To: Rulemaking Comments
Subject: Docket ID NRC-2008-0272
Attachments: OAS GL rule 10 14 09.pdf

Find attached comments on the above mentioned docket id on behalf of the Organization of Agreement States. Thank you for the opportunity to comment.

Shawn W. Seeley

Shawn W. Seeley, OAS Chair
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From: "Seeley, Shawn" <Shawn.Seeley@maine.gov>
To: <rulemaking.comments@nrc.gov>
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