



Charlie Crist  
Governor

Ana M. Viamonte Ros, M.D., M.P.H.  
State Surgeon General

October 14, 2009

DOCKETED  
11:58NR

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Attn: Rulemakings and Adjudication Staff

October 14, 2009 (3:44pm)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

RE: Docket ID NRC-2008-0272  
(74 FR 38372 "Limiting the Quantity  
of Byproduct Material in a Generally  
Licensed Device")

Dear Sir:

The State of Florida hereby submits comments on the proposed revision to 10 CFR 31.5 published August 3, 2009 referenced above.

1. We strongly agree with the assignment of Compatibility Category C for all parts of this proposed rule 31.5(a), 31.5(b), 31.5(c)(13)(i), and 31.6. This assignment provides Florida the flexibility needed to manage our general licensing program to address health and safety issues and to track the movement of service providers to generally licensed customers. We would consider a change in compatibility designation to a Category B or higher to be a significant change in the proposed rule.
2. Changes to 31.5(a)  
We agree with the need to require a specific radioactive materials license for persons who possess a device with radioactive materials greater than 1/100 of IAEA Category 2 materials as listed in Appendix E of 10 CFR Part 20. We do not believe that any source that contains less than IAEA Category 2 quantities should be tracked as part of NRC's National Source Tracking System (NSTS) described in 10 CFR 20.2207.
3. Addition of 31.5(b)(3)  
We strongly disagree with the requirement that an existing holder of a specific radioactive materials license (SL) must list any general licensed devices (GL) on their SL and follow the requirements of the SL.
  - (a) Our experience is that SL's do not wish to have the regulatory burden of all of the requirements of a specific license applied to a generally licensed device. This will impact every university or research and development (R&D) specific license that have many generally licensed electron capture detectors (ECD) containing small quantities of Ni-63 or H-3, calibration standards (Cs-137) contained in liquid scintillation detectors (LSD), Po-210 static eliminators, or tritium exit signs distributed under 31.5. By placing these devices on their SL, the users must now have a minimum amount of documented training and experience. (FL requires by rule a minimum of 8 hours) and based on the licensees tie-down requirement, may require radiation monitoring. (Some SL's administratively badge all users for liability purposes.) These users are students and researchers who continuously change creating a constant training need that did not exist before.

- (b) SL's should not be punished for already having an existing radiation safety program by placing additional workload simply because they have a GL device.
- (c) University and R&D specific licenses possessing a generally licensed ECD usually do not have any specific licensing requirements for ECD's or LSD's. These licenses may only be authorized to use loose radioactive materials and may not have any requirements in their specific license for sealed sources. The GL requirements in 31.5 addresses this situation by having the manufacturer's GL attached label requirements followed as well as the manufacturer's instructions. Requiring the SL to submit this information to amend their license and the regulatory agency to review and approve it is a tremendous waste of resources. In Florida approximately 40-50 specific licenses currently have generally licensed devices and would need to amend their license with procedures and training requirements as well as locations of use with diagrams, etc.
- (d) Every Sealed Source and Device Registry Sheet (SSDR) authorized to distribute to a generally licensed device must be amended to specify that BOTH specific and general licensees can receive these devices. The SSDR must identify the differences in labeling and requirements for the SL versus the GL distribution. Each manufacture and distributor of a GL device must be aware of whether their customer has a SL and verify the license authorizes possession of that particular model, isotope and quantity and send them the device without the GL labeling.
- (e) Some states may charge amendment fees to amend a specific license or change an existing SSDR.

With the exception of tritium exit signs, we agree that there is a need for additional accountability for all generally licensed devices. Placing more requirements on SL's simply because they possess a GL device does not provide additional accountability of these devices in a cost effective manner. The additional requirements for specific licensees should be deleted.

**Solution:**

We propose keeping the current requirements of 31.5 and adding an annual inventory requirement for all (SL or GL) who possess a general license device under 31.5. This inventory should include the date of inventory and the information specified in 31.5(c)(13)(iii)(A)-(F). These inventories shall be maintained for inspection by the Commission. NRC will need to decide if they wish these general licensees to submit these inventories to NRC at some frequency (such as 3 years) or only look at them during inspections. The states should have the flexibility to establish their own frequency for submission. Currently Florida requires these inventories to be submitted annually. We are aware of other Agreement states that have robust general licensing programs that currently track all general licensed devices and have similar reporting requirements. This rule should be maintained at the proposed compatibility C designation to provide states flexibility to run their existing programs.

The text for 31.5(b)(3) should be changed to read.

At intervals not to exceed 12 months, any person possessing a general license described in 31.5, shall conduct an inventory of all devices (except tritium exit signs). A record of this inventory should include the date of inventory, name of person conducting the inventory, and the items listed in 31.5(c)(13)(iii)(A)-(F), below. These inventory records shall be maintained for inspection by the Commission for 15 years.

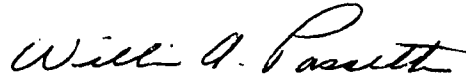
The compatibility designation of this suggested language should remain C.

4. Other issues:

- (a) Aggregation of devices containing quantities below 1/100 of IAEA Category 2 should not be considered when determining whether to require a specific license. Our experience with aggregation is that the concept is subject to interpretation by both the licensee and licensing authority and should not be used.
- (b) Decay of the isotope to levels below 1/100 of IAEA Category 2 should not be considered when determining whether a device is generally licensed or specifically licensed. If a device or source is distributed as a specifically licensed item it will always remain a specifically licensed item. Our experience with this concept through NSTS is that it produces confusion as to the status of devices and a lack of accountability.
- (c) We do not believe that the compatibility designation C of this rule will have any direct or significant effect on the transportation of devices or their movement into and out of Florida.

Thank you for the opportunity to comment. Should you have any question please contact me at 850-245-4266.

Sincerely,



William A. Passetti  
Chief  
Bureau of Radiation Control

## Rulemaking Comments

---

**From:** Mike\_Stephens@doh.state.fl.us  
**Sent:** Wednesday, October 14, 2009 3:09 PM  
**To:** Rulemaking Comments  
**Subject:** Docket ID NRC-2008-0272  
**Attachments:** FLCommentsNRCProposedGLRule-FR38372 (NRC-2008-0272).pdf

Please find attached Florida's comments on the proposed GL rule listed in FR38372 under Docket ID NRC-2008-0272.

*Michael N. Stephens*

Bureau of Radiation Control

(850)-245-4266

Fax (850) 487-0435

Visit our Web Site: [<http://www.doh.state.fl.us/environment/radiation/>](http://www.doh.state.fl.us/environment/radiation/)

How are we doing? Please take our survey: <http://www.doh.state.fl.us/environment/radiation/survey.htm>

*Mission: To promote and protect the health and safety of all people in Florida through the delivery of quality public health services and promotion of health care standards.*

\*\*\*\*\*

Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.

---

**For up-to-date information about H1N1 Swine Flu visit <http://www.myflusafety.com> or call 877 352 3581**

Received: from mail2.nrc.gov (148.184.176.43) by TWMS01.nrc.gov  
(148.184.200.145) with Microsoft SMTP Server id 8.1.393.1; Wed, 14 Oct 2009  
15:09:10 -0400  
X-Ironport-ID: mail2  
X-SBRS: 3.3  
X-MID: 8033746  
X-IronPort-Anti-Spam-Filtered: true  
X-IronPort-Anti-Spam-Result:  
AmABAG++1UqnTglVhWdsb2JhbACCKBUYmDcBAQEKcwoaBa1lgjUJj0eCOBWBYQSLFQ  
X-IronPort-AV: E=Sophos;i="4.44,560,1249272000";  
d="pdf?scan'208,217";a="8033746"  
Received: from dohsmso01.doh.state.fl.us (HELO  
dit00smamso001.doh.ad.state.fl.us) ([167.78.2.21]) by mail2.nrc.gov with  
ESMTP; 14 Oct 2009 15:09:08 -0400  
Received: from dit00smapf01.doh.ad.state.fl.us  
(dit00smapf01.doh.ad.state.fl.us [167.78.1.50]) by  
dit00smamso001.doh.ad.state.fl.us (8.13.8/8.12.11) with ESMTP id  
n9EJ97pE011951 for <Rulemaking.Comments@nrc.gov>; Wed, 14 Oct 2009 15:09:07  
-0400  
Received: from dit00smapo07.doh.ad.state.fl.us ([167.78.2.210]) by  
dit00smapf01.doh.ad.state.fl.us with Microsoft SMTPSVC(6.0.3790.3959); Wed,  
14 Oct 2009 15:09:07 -0400  
X-MimeOLE: Produced By Microsoft Exchange V6.5  
Content-Class: urn:content-classes:message  
MIME-Version: 1.0  
Content-Type: multipart/mixed;  
boundary="----=\_NextPart\_001\_01CA4D01.CD2F6662"  
Subject: Docket ID NRC-2008-0272  
Date: Wed, 14 Oct 2009 15:09:06 -0400  
Message-ID:  
<21C88EA15D949B4587768D9A866D130C109349CE@dit00smapo07.doh.ad.state.fl.us>  
X-MS-Has-Attach:  
X-MS-TNEF-Correlator:  
Thread-Topic: Docket ID NRC-2008-0272  
Thread-Index: AcpNAc0xd0Wjg0vHSMKs8F26nG49sw==  
From: <Mike\_Stephens@doh.state.fl.us>  
To: <Rulemaking.Comments@nrc.gov>  
X-OriginalArrivalTime: 14 Oct 2009 19:09:07.0341 (UTC) FILETIME=[CD9D13D0:01CA4D01]  
X-Spam-Score: undef - spam scanning disabled  
X-CanItPRO-Stream: base:default  
X-Scanned-By: CanIt (www . roaringpenguin . com) on 167.78.2.21  
Return-Path: Mike\_Stephens@doh.state.fl.us