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Arkansas Department of Health

4815 West Markham Street, Slot H-30 • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2173
Governor Mike Beebe
Paul K. Halverson, DrPH, FACHE, Director and State Health Officer

DOCKETED
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October 20, 2009 (10:50am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

October 19, 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: COMMENTS FROM THE STATE OF ARKANSAS ON THE PROPOSED RULE "LIMITING THE QUANTITY OF BYPRODUCT MATERIAL IN A GENERALLY LICENSED DEVICE"

Dear Mr. Shaffer:

The Arkansas Radioactive Materials Program (Program) appreciates the opportunity to comment on the proposed changes to the General License requirements. The Program fully supports establishing an activity limit above which a Generally Licensed device should be considered for a Specific License. The Program supports this change as it relates to enhancements to protection of public health and safety and the environment. While the proposed changes to the regulations will enhance the security of these devices, the Program endorses any effort to ensure that these devices remain under the control of those who have been trained as part of an active Radiation Protection/Safety Program.

The Arkansas program has had the experience of retrieving generally licensed devices from the public domain, including a five (5) curie cesium-137 source for which accountability of the device had been lost. Under the proposed regulations, sources of this size would now be required to be possessed under a specific license which would enhance accountability of these types of devices.

The Arkansas Program fully supports the compatibility changes from "B" to "C" as proposed in the Statement of Considerations. These changes are necessary to ensure that existing General License Programs within several agencies will not be weakened in order to comply with a compatibility "B" requirement. This will also allow those agencies to continue to regulate radioactive material within their jurisdiction, under an established regulatory framework.

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While the Arkansas Program supports the establishment of an activity limit for GL devices, the Department would prefer to see the activity limit for specific licensure set at the current registration limit established in 10CFR31.5(c)(13)(i). The Program's position is that this would enhance the accountability of these devices while strengthening the protection of the public health and safety and the environment. This would also alleviate the confusion that currently exists with licensees, whether they be General or Specific.

The Arkansas Program does NOT support the addition of 10CFR31.5(b)(3) in the proposed regulations. The basis for this is that the program is concerned with the many uncertainties and questions that will be generated by licensees of both specific and general licensed devices. In those cases where movement within a company from one facility to another, where one facility has a specific license and another facility does not, confusion for both facilities will exist.

Again, thank you for the opportunity to comment on these proposed rules. In summary, the Arkansas Program is:

- In favor of setting an upper activity limit for generally licensed devices; however, is supportive of setting the activity limit for generally licensed devices at the current registration limit of 10CFR31.5(c)(13)(i).
- In favor of the compatibility changes from "B" to "C".
- Is not in favor of the addition of 10CFR31.5(b)(3) requiring general licensed devices possessed by specific licensees to treat these devices as specifically licensed.

If you have any questions regarding these comments, please feel free to contact me at (501)661-2173 or by email steve.mack@arkansas.gov.

Thank you,

Steve E. Mack, Health Physicist
Arkansas Radioactive Materials Program

SM:sm

cc: Bernard Bevill, Section Chief
Radiation Control
State of Arkansas

Shawn Seeley, Chair
Organization of Agreement States

Ruth McBurney, Executive Director
Conference of Radiation Control Program Directors

Rulemaking Comments

From: Steve Mack [Steve.Mack@arkansas.gov]
Sent: Monday, October 19, 2009 5:14 PM
To: Rulemaking Comments
Cc: Shaffer, Mark; shawn.seeley@maine.gov; rmcburney@crcpd.org; Bernard Bevill; Jared Thompson; David Snellings
Subject: Comments on limiting the quantity of byproduct material in a GL device
Attachments: comments GL rule 10-19-09.doc

Attached are comments from the State of Arkansas regarding proposed regulations limiting the quantity of byproduct material in a generally licensed device.

Steve E. Mack, Health Physicist
Radioactive Materials Program
Arkansas Department of Health
4815 W. Markham, Slot 30
Little Rock, AR 72205-3867

Phone 501-661-2173
Fax 501-661-2849

Email: steve.mack@arkansas.gov

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(148.184.100.43) with Microsoft SMTP Server id 8.1.393.1; Mon, 19 Oct 2009
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CM-SAS-HT-03.sas.arkgov.net ([170.94.157.22]) with mapi; Mon, 19 Oct 2009
16:14:07 -0500
From: Steve Mack <Steve.Mack@arkansas.gov>
To: "rulemaking.comments@nrc.gov" <rulemaking.comments@nrc.gov>
CC: "Mark.Shaffer@nrc.gov" <Mark.Shaffer@nrc.gov>, "shawn.seeley@maine.gov"
<shawn.seeley@maine.gov>, "rmcburney@crcpd.org" <rmcburney@crcpd.org>,
Bernard Bevill <Bernard.Bevill@arkansas.gov>, Jared Thompson
<Jared.Thompson@arkansas.gov>, David Snellings <dsnellings92@suddenlink.net>
Date: Mon, 19 Oct 2009 16:14:06 -0500
Subject: Comments on limiting the quantity of byproduct material in a GL
device
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GL device
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