



PR 31
(74FR38372)

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES

51

Nicholas A. Toumpas
Commissioner

DOCKETED
USNRC

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José Thier Montero
Director

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: **Docket ID NRC-2008-0272**

COMMENTS ON PROPOSED RULE ON "LIMITING THE QUANTITY OF BYPRODUCT
MATERIAL IN A GENERALLY LICENSED DEVICE" (FSME-09-066)

Dear Mr. Shaffer:

This is with regard to the new General License (GL) requirements, specifically the proposed rule on limiting the quantity of byproduct material in a generally licensed device. The state of New Hampshire has reviewed the proposed rule and agrees with the changes that will be made to accommodate petitions filed in the past by the Organization of Agreement States and the State of Florida, relative to the strengthening these requirements and in particular, to changing the compatibility of 10 CFR 31.5 from Category "B" to Category "C".

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, we wish to retain the flexibility to regulate these devices in the manner which we have determined to be appropriate and necessary in New Hampshire to protect the public health and safety, that is, to require that all portable (non-fixed) devices be specifically licensed, even if they are initially distributed as GL devices, and to grant reciprocal recognition only to out-of-state holders of a specific license, and not to general licensees.

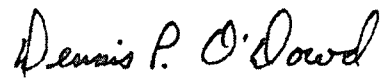
We do not believe that this would cause any undue hardship, as this has not been an issue in the past, and New Hampshire has always required that only fixed devices be recognized under a general license, and has never authorized out-of-state general licensed devices under reciprocal recognition, in accordance with our current regulations. We also wish to have the flexibility to require that all service licensees, regardless of whether they are providing such services on a specifically licensed or generally licensed device, request for reciprocal recognition when coming into New Hampshire to perform such activities.

Template = SECY-067

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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 feel free to contact me by either email at dodowd@dhhs.state.nh.us or telephone at 603.271-4585. Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink that reads "Dennis P. O'Dowd". The signature is written in a cursive style with a large, stylized 'D' and 'O'.

Dennis P. O'Dowd, Administrator
Radiological Health Section

Rulemaking Comments

From: DO'Dowd@dhhs.state.nh.us
Sent: Monday, October 19, 2009 10:49 PM
To: Rulemaking Comments
Cc: Sahle, Solomon; TKenna@dhhs.state.nh.us
Subject: Docket No. NRC-2008-0272
Attachments: NH Comments-GL Rulemaking Part 31.doc

Attached you will find New Hampshire's comment letter regarding Docket No. NRC-2008-0272, relative to the new general license rule.

Thank you for your consideration of these comments.

Dennis P. O'Dowd, Administrator
Radiological Health Section
NH DHHS - Division of Public Health Services
29 Hazen Drive, Concord, NH 03301-6504
Tel. No. 603-271-4585; Fax No. 603-225-2325
Email: dodowd@dhhs.state.nh.us

DPHS' Radiological Health Section - Protecting the public health and safety and the environment from unnecessary exposure to radiation

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(See attached file: NH Comments-GL Rulemaking Part 31.doc)

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5502584.565125774; Mon, 19 Oct 2009 22:47:49 -0400

Subject: Docket No. NRC-2008-0272

To: rulemaking.comments@nrc.gov

CC: Solomon.Sahle@nrc.gov,

TKenna@dhhs.state.nh.us

X-Mailer: Lotus Notes Release 7.0.1 January 17, 2006

Message-ID:

<OFCD5D1619.539193BC-ON85257655.000EEC04-85257655.000F74F1@dhhs.state.nh.us>

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