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DOCKETED  
USNRC

October 13, 2010

October 14, 2010 (9:40am)

Catherine R. Mattsen  
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

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

OPPORTUNITY TO COMMENT ON ENVIRONMENTAL ASSESSMENT AND  
PROPOSED RULE TO AMEND 10 CFR 30, 31, 32, 40, AND 70 – REQUIREMENTS FOR  
DISTRIBUTION OF BYPRODUCT MATERIAL (FSME-10-054)

Dear Ms. Mattsen:

The OAS appreciates the additional time given for us to properly review and address the subject document. The Executive Board of the Organization of Agreement States has reviewed the above document and offers the following comments.

We feel the current general license program does not result in adequate accountability for registered radioactive material. This was detailed in our original request for rulemaking. In this request we suggested a much lower threshold above which specific licensing would be required.

The proposed rulemaking does not go that far, but includes another category of exempt devices, industrial devices. It appears to remove the prescriptive nature of the manufacturing and distribution regulations and makes them performance based. This approach brings SS&D reviews and licensing of these devices into alignment with the performance based/risk-informed approach of the rest of our radiation protection program. The proposal does limit the quantity in any device to no more than  $10^{-4}$  times the Category limit in Appendix E of Part 20. It also has a requirement that certain doses would not be exceeded in misuse scenarios involving unshielded sources, and an environmental impact/dose contribution of no more than 1 mrem in any one year in disposal scenarios.

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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

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After review, the OAS is supportive of the proposed changes. We think the proposal may result in manufacturers and distributors trying to reduce quantities of material in their devices to meet exempt quantity activities. This will greatly reduce quantities of radioactive material currently found in devices and help eliminate safety issues regarding hazards caused by radiation dose to the occupational worker, the public and the environment.

We appreciate the chance to comment on this subject, and stand ready to answer any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "David Walter". The signature is fluid and cursive, with the first name "David" being more prominent than the last name "Walter".

David Walter, OAS Chair  
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## Rulemaking Comments

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**From:** David.Walter@adph.state.al.us  
**Sent:** Wednesday, October 13, 2010 3:48 PM  
**To:** Rulemaking Comments  
**Subject:** NRC-2008-0338  
**Attachments:** FSME-10-054 comments.doc

Please see comments attached form the OAS Executive Board.

David Walter, Assistant Director  
Alabama Office of Radiation Control  
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Please note my new e-mail address  
[david.walter@adph.state.al.us](mailto:david.walter@adph.state.al.us)

Visit our web site at [www.adph.org/radiation](http://www.adph.org/radiation)

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From: <David.Walter@adph.state.al.us>

Date: Wed, 13 Oct 2010 14:47:34 -0500

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