



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

April 8, 1994

MEMORANDUM FOR: Francis Cameron
Special Counsel for Public Liaison
and Waste Management, OGC

Carl Paperiello, Director
Division of Industrial & Medical
Nuclear Safety, NMSS

FROM: Paul H. Lohaus, Deputy Director
Office of State Programs

SUBJECT: REGULATORY PROVISIONS FOR OREGON

The Oregon Agreement State materials program is revising the State rules for the control of radiation and adopting provisions required in order to remain compatible with NRC. During the review of the proposed rules by OSP staff, two issues were identified in which the compatibility of the rules is unclear. The issues involve the addition of specific restrictions or a possession limit in three separate general licenses as identified below:

<u>NRC rules:</u>	<u>equivalent State rules:</u>	<u>Restriction or Limit</u>
10 CFR 31.5	333-102-115	See enclosure 1
10 CFR 31.11	333-102-130	See enclosure 1
10 CFR 40.22	333-102-101	See enclosure 1

The addition of possession limits in two of the general licenses would appear to force specific licensure for some users of material presently authorized under the general licenses. We would appreciate your comments on the potential impact of the proposed changes and your views on whether the amended rules should be determined to be compatible with equivalent NRC rules.

The State rules appear to be compatible with the equivalent NRC rules otherwise. According to the 1984 OSP internal procedure B.7, 10 CFR 31.5 and 31.11 are Division 2 rules and 10 CFR 40.22 is a Division 1 compatibility requirement.

A manufacturer of generally licensed gauging devices has raised the issue of interference with interstate commerce in regard to the State rule 333-102-115. A copy of a March 21, 1994 letter from Elsa Nimmo of Measurex Systems, Inc., to Richard Bangart, Office of State Programs, addressing the issue is enclosed (Enclosure 2).

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Please review and return any comments by April 22, 1994, or as soon as possible. The State is proceeding to issue the rules in final form (scheduled for promulgation by May 1, 1994), but has indicated that they will address our comments on these provisions, in a subsequent rulemaking if required. Also enclosed for your information are copies of the summary of the review findings and copies of the submitted proposed rules (Enclosures 3 and 4).

Paul H. Lohaus, Deputy Director
Office of State Programs

Enclosures:

- Enclosure 1 - Oregon rules 333-102-101, subsection 6
333-102-115, subsection 7
333-102-130, subsection 3
- Enclosure 2 - 3/21/94 Measurex letter
- Enclosure 3 - Summary of NRC review and comments
- Enclosure 4 - Copy of Oregon proposed rules

Distribution:

- Dir RF
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PDR YES _____ NO

OFFICE	SP: SA <i>[Signature]</i>	OSP: DD <i>[Signature]</i>					
NAME	RBlanton: dr	PLohaus					
DATE	04/07/94	04/7/94					

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