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OCCUPATIONAL HEALTH AND SAFETY

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DOCKET NUMBER
PROPOSED RULE PR 30, 31, 32 170+171
(64FR40295)

October 8, 1999

U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attention: Rulemakings and Adjudications Staff

Re: Proposed Rules for Certain Generally Licensed Material
FR Vol. 64, No. 142, July 26, 1999

The University of Delaware welcomes the opportunity to comment on the proposed rulemaking referenced above. We suggest that several changes in the proposed rule be considered.

GENERAL COMMENTS

The *Background* section of the Proposed Rule states that generally licensed materials are "designed with inherent radiation safety features so that [they] can be used by persons with no radiation training or experience". It also states that the NRC has not inspected general licensees "because of the small radiation risk posed by these devices". However, it is later stated that due to mishandling or improper disposal of certain generally licensed materials, "there is a potential for significant exposures" to the public. Clearly, the most appropriate course of action is to remove generally licensed status from certain devices and only allow their possession and use under the terms of a specific license. Furthermore, if the requirements associated with the use of a radioactive device are so complicated that the individual who obtains and uses it can not understand them without the assistance of a "responsible person", then the device should not be generally licensed and instead should be controlled under the provisions of a specific license.

SPECIFIC COMMENTS

Incorporation into a Specific License

Many institutions incorporate generally licensed material into their specific licenses and thereby provide strict controls on their use and disposal. The regulations should clearly state these incorporated devices shall be exempt from the Part 31 requirements if incorporated into a specific license.

Appointment of Responsible Person

The method of appointing a "responsible person" needs to be modified. The proposed rule requires the general licensee (purchaser/transferee) of any generally licensed material to assign a responsible person but does not insure that the purchaser has selected an appropriate or willing individual. The rule must include a provision to require (and document) that the general licensee has obtained permission from the proposed responsible person to be listed as such. The responsible person can not fulfill their duties unless they are aware that they have been named and are aware that generally licensed material has been acquired.

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Authority of the Responsible Person

The proposed rule states that the responsible person must have the “authority for taking required actions to comply with appropriate regulations” implying authority over the actions of the user (general licensee) of the licensed device. It also implies liability in the case of misuse or improper disposal. The rule further states that the appointment of the responsible person “does not relieve the general licensee of responsibility”. This is contradictory. The rule should be revised to state that the responsible person acts solely in an advisory role and that the general licensee alone is responsible for complying with regulations and liable for misuse or improper disposal.

Timeliness of Disposition

The statement in the proposed rule that “general licensees are unlikely to keep a device unused for more than 2 years” is inaccurate. The imposition of a two-year limit on storage would be a hardship for the university research community. It is often the nature of scientific research in a university setting for radioactive devices to be used intermittently. For instance, funding of grants to conduct research utilizing generally licensed devices is sometimes not forthcoming and a device may need to be stored until the project is again funded. One common laboratory device is the liquid scintillation counter which usually contains a generally licensed external radiation standard. The proposed rule might require disposal of this expensive piece of lab equipment which, almost certainly, would be used at a future time. The University recommends that the permitted storage time period be changed to 5 years.

The University appreciates the opportunity to comment on a rule that may substantially affect our radiation safety program. Please contact me if you have questions concerning our comments.

Sincerely,



Robin L. Elliott
Radiation Safety Officer