

September 15, 2011

ALL AGREEMENT STATES  
STATE LIAISON OFFICERS

**FEDERAL REGISTER NOTICE – Impacts of Compatibility Changes in General License Regulations (FSME-11-088)**

**Purpose:** This letter is to inform you that the U.S. Nuclear Regulatory Commission (NRC) has published a *Federal Register* notice (FRN) that is soliciting information on impacts to manufacturers and distributors and end-users of generally licensed devices from revising the compatibility categories of 10 CFR 31.5 and 31.6 from “B” to “C.”

**Background:** On December 2, 2010, the Commission issued a Staff Requirements Memorandum (SRM), SECY-10-0105, “Final Rule: Limiting the Quantity of Byproduct Material in a Generally Licensed Device” and acted on the final rule that would amend Title 10 of the *Code of Federal Regulations* (10 CFR), Part 31. The amendment would have limited the quantity of byproduct material contained in a generally licensed device to below one-tenth (1/10) of the International Atomic Energy Agency Category 3 thresholds. Individuals possessing devices with byproduct material at or above 1/10 of the Category 3 threshold values would have been required to apply for and obtain a specific license. After review, the Commission decided to disapprove the publication of the final rule, but approved revising the compatibility categories of 10 CFR 31.5 and 31.6 from Category B to Category C.

**Discussion:** The Commission directed staff to report back with a description of which Agreement States, if any, will act to modify their program as a result of the change in compatibility for 10 CFR 31.5 and 31.6, how the programs were modified and provide an analysis of any transboundary impacts to the regulated community, particularly for those operating on a multi-state basis. The NRC staff queried the Agreement States to collect information on their current regulatory program, and whether they intend to modify their current regulations equivalent to 10 CFR 31.5 and 31.6. The feedback from the States received to date was that the Agreement States do not intend to modify their current general license (GL) regulatory programs as a result of the Commission’s decision to revise the compatibility categories of 10 CFR 31.5 and 31.6 from B to C.

Therefore, the NRC staff has assumed that the current Agreement State GL regulatory environment is the base case for evaluating impacts on manufacturers and distributors and end-users. Given the assumption that the current regulatory environment will continue, the staff initiated collecting information on the impact of the compatibility change on manufacturers, distributors, and end-users of generally licensed devices through a Federal Register Notice (FRN) and public meetings. The FRN requests comments to be submitted by October 30, 2011.<sup>1</sup> The FRN is available at: <http://www.gpo.gov/fdsys/pkg/FR-2011-09-12/pdf/2011-23225.pdf>. The public meetings are noticed on the NRC web site at: <http://www.nrc.gov/public-involve/public-meetings/index.cfm>, and we encourage you to notify your licensees of these opportunities to provide information of the impacts of the compatibility change on their operations. If you are aware of any impacts to your licensees from the change in compatibility, please provide the information to us.

If you have any questions regarding this correspondence, please contact me at (301) 415-7135, or the Office of Federal and State Materials and Environmental Management Programs staff member named below.

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Jim Luehman, Acting Director  
Division of Materials Safety  
and State Agreements  
Office of Federal and State Materials  
and Environmental Management Programs

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<sup>1</sup> This information request has been approved by OMB 3150-0029 expiration 11/30/2013. The estimated burden per response to comply with this voluntary collection is approximately 8 hours. Send comments regarding the burden estimate to the Records and FOIA/Privacy Services Branch (T-5F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by Internet e-mail to [infocollects@nrc.gov](mailto:infocollects@nrc.gov), and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202 (3150-0029), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

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