



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

(FSME-07-021, February, Program, Byproduct Material)

February 27, 2007

ALL AGREEMENT STATES AND NON-AGREEMENT STATES

**OPPORTUNITY TO COMMENT ON FINAL RULE: EXPANDED DEFINITION OF BYPRODUCT MATERIAL (FSME-07-021)**

**Purpose:** To inform you that the U. S. Nuclear Regulatory Commission (NRC) plans to publish a *Federal Register* Notice (FRN) of the adoption of the final rule on the expanded definition of byproduct material. Your comments on the draft FRN are invited.\*

**Background:** The NRC plans to adopt a final rule establishing the regulatory foundation for the regulation of byproduct material as defined in the new Atomic Energy Act Sections 11.e(3) and 11.e(4), added by the Energy Policy Act of 2005. The final rule will implement the NRC's authority to regulate certain Naturally Occurring and Accelerator Produced Radioactive Materials previously the regulatory responsibility of States. The stakeholders were provided an opportunity to comment on the proposed rule, which was published for public comment on July 28, 2006 (71 FR 42952).

**Discussion:** A draft FRN containing the final rule is posted for review and comment at the Agreement State area of the NRC's Technical Conference Forum: <http://techconf.llnl.gov/cgi-states/topics>. **Please note that this is predecisional information provided for your review, and should not be released to the public.** The final rule was developed by a Rulemaking Working Group and Steering Committee with State representatives on each group. A summary of major changes between the proposed and final rules is also posted.

Due to its predecisional nature, the draft is exempt from public disclosure under NRC rules. Therefore, we request that you limit distribution to your staff and not release the draft publicly. Please see the Office of Federal and State Materials and Environmental Management Programs (FSME) web page at <http://www.hsrd.ornl.gov/nrc/procedures/sa800.pdf> for additional information about the distribution and use of predecisional information. If the draft is released, please inform me or the contact named below within 24 hours.

**Please provide any comments you have on the final rule directly to the FSME contact below by March 13, 2007.** Due to the short timeframe for the adoption of this rule, we must request comments in less than the usual comment period. This matter was discussed with and agreed to by representatives of the Conference of Radiation Control Program Directors and Organization of Agreement States on the Steering Committee.

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\* This information request has been approved by OMB 3150-0029, expiration 06/30/07. 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.

**FSME-07-021**

February 27, 2007

If you have any questions about this letter or the draft rule, please contact me or the individual named below.

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