

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Sep 07, 2006 09:59

PAPER NUMBER: LTR-06-0446

LOGGING DATE: 09/06/2006

ACTION OFFICE: EDO

To: Schlueter, STP

AUTHOR: Joe Nadenicek

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DEDMRS
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AO
RIV

AFFILIATION: SD

ADDRESSEE: Dale Klein

SUBJECT: South Dakota's plan not to enter into an agreement with the Commission pursuant to Sec 24b of the AEA...

ACTION: Appropriate

DISTRIBUTION: RF

LETTER DATE: 08/30/2006

ACKNOWLEDGED No

SPECIAL HANDLING:

NOTES:

FILE LOCATION: ADAMS

DATE DUE:

DATE SIGNED:

Template: SECY-017

E-RIDS: SECY-01



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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August 30, 2006

Mr. Dale E. Klein
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Klein:

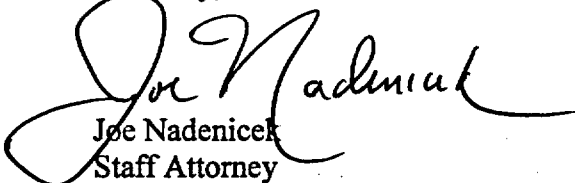
This letter is in reply to your correspondence dated August 18, 2006, to South Dakota Governor M. Michael Rounds concerning state regulation of radioactive materials and the federal Energy Policy Act of 2005. In that letter, you advise of the impending transition of regulation of radium relating to particle acceleration and similar activities and material from state to federal authorities under pending federal regulations to take effect on February 8, 2007. You request the State of South Dakota to advise whether it intends to enter into an agreement with the U.S. Nuclear Regulatory Commission (Commission) pursuant to Section 274b of the Atomic Energy Act (AEA) of 1954, to continue regulating such materials.

Please be advised that South Dakota currently has no such activities taking place within this state and no state mechanism in place to regulate these materials and activities. Therefore, the State of South Dakota does not intend to enter into an agreement with the Commission pursuant to Section 274b of the AEA to assume regulatory authority over such byproduct material, including byproduct material as defined in Section 11e(3) and 11e(4).

The State of South Dakota confirms that the authority to regulate these materials will transition to the Commission as required by the Energy Policy Act of 2005.

If you have any further questions concerning this matter, please do not hesitate to contact me (Joe.Nadenicek@state.sd.us).

Sincerely,


Joe Nadenicek
Staff Attorney
605.773.3836

copy to: Governor M. Michael Rounds
Steven M. Pirner, Secretary, SD Department of Environment and Natural Resources