

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

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To: Miller, FSME
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AUTHOR: GOV Brad Henry

AFFILIATION: OK-GOV

ADDRESSEE: Dale Klein

SUBJECT: Concerns naturally occurring and accelerator produced radioactive materials now defined as byproduct material

ACTION: Appropriate

DISTRIBUTION: SECY/RAS RF

LETTER DATE: 12/06/2006

ACKNOWLEDGED No

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Brad Henry
Office of the Governor
State of Oklahoma

December 6, 2006

The Honorable Dale E. Klein, Ph.D., Chairman
U.S. Nuclear Regulatory Commission
One White Flint North
Mail Stop 016C1
Washington, DC 20555

Dear Dr. Klein:

The purpose of this letter is to comply with provisions of Section 651(e) of the Energy Policy Act of 2005 regarding the licensing of certain naturally occurring and accelerator produced radioactive materials now defined as byproduct material in Sections 11e.(3) and 11e.(4) of the Atomic Energy Act of 1954, as amended.

In 2000, the State of Oklahoma entered into an Agreement with the Commission under Section 274b. of the Atomic Energy Act of 1954, as amended. Under that Agreement, the State licenses byproduct material as defined in Section 11e.(1) of the Atomic Energy Act. In addition, the State now licenses the naturally occurring and accelerator produced radioactive materials now defined as byproduct material.

Our program for licensing the new byproduct material is not separate and distinct from the program for licensing 11e.(1) byproduct material, and no changes have been made to the licensing program that would impact the previous IMPEP finding of adequacy. Further, we intend to continue to license the new byproduct material under this same program.

Accordingly, I certify to the Commission that the State of Oklahoma has a program for licensing byproduct material, as defined in paragraphs (3) or (4) of the Atomic Energy Act of 1954, as amended, that is adequate to protect the public health and safety, and that the State intends to continue to implement our regulatory responsibility with respect to the byproduct material.

This certification is effective on the date of publication of the NRC's "Plan for the Transition of Regulatory Authority Resulting from the Expanded Definition of Byproduct Material."

Respectfully,

A handwritten signature in cursive script that reads "Brad Henry".

Brad Henry
Governor

CC: Miles Tolbert, Secretary of the Environment
Steve Thompson, Oklahoma Department of Environmental Quality