

February 1, 2007

ALL AGREEMENT AND NON-AGREEMENT STATES  
STATE LIAISON OFFICERS

**FINAL RULE IMPLEMENTING ENERGY POLICY ACT SECTION 656 (FSME-07-006)**

**Purpose:** To inform all States that the Final Rule implementing Energy Policy Act Section 656 has been published in the *Federal Register*, and to advise the Agreement States that no action is required by this rule of the Agreement States or their licensees.

**Background:** The United States Nuclear Regulatory Commission (NRC) has published a final rule adopting 10 CFR 73.28 to codify exceptions from the requirements of Section 170I of the Atomic Energy Act (AEA), as amended, consistent with Section 656 of the Energy Policy Act of 2005. Under the final rule, those licensees that did not receive NRC Orders for both fingerprinting and background checks are excepted from the security background check requirements of AEA Section 170I. The exceptions are consistent with the system of Orders, issued to certain licensees, that NRC has instituted for protection of the common defense and security.

**Discussion:** A draft of the rule was made available to the States for early comment. The proposed rule, addressing State early comments, was issued for public comment on August 30, 2006. Two comment letters were received, including one from the Organization of Agreement States. No changes to the proposed rule were required to address the comments. The final rule (same text as the proposed rule) was published on January 24, 2007 (72FR3025). The compatibility category of the final rule remains "NRC."

Since the rule is compatibility category "NRC," Agreement States do not need to take any action with respect to this final rule. Since Agreement State licensees subject to the security background check requirements of AEA Section 170I were also issued the NRC Orders, the Agreement State licensees that did not receive the Orders are excepted from the Section 170I requirements by this rule. Thus, no action is required of Agreement State licensees with respect to this final rule.

FSME-07-006

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If you have any questions on this correspondence, please contact me at (301) 415-2325 or the individual named below.

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Enclosure: PDF Copy of FRN

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