

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

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ACTION OFFICE: EDO **To: Miller, FSME**

AUTHOR: Gov. John Hoeven **cys: EDO**

AFFILIATION: ND-GOV **DEDMRS**

ADDRESSEE: Chairman Dale Klein **DEDR**

SUBJECT: Energy Policy Act of 2005, regarding the licensing of certain naturally occurring and accelerator produced radioactive materials **DEDIA**

ACTION: Appropriate **AO**

DISTRIBUTION: RF **RIV**

LETTER DATE: 03/16/2007

ACKNOWLEDGED: No

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DATE DUE: **DATE SIGNED:**



— State of —
North Dakota

Office of the Governor

John Hoeven
Governor

March 16, 2007

The Honorable Dale E. Klein, Ph.D., Chairman
United States Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Dr. Klein:

The purpose of this letter is to comply with the 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 1969, the State of North Dakota 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 licenses the natural 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 Integrated Materials Performance Evaluation Program (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 North Dakota has a program for licensing byproduct material, as defined in paragraph (3) or (4) of Section 11e. 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 black ink that reads "John Hoeven".

John Hoeven
Governor

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