

April 6, 2007

ALL AGREEMENT STATES, NEW JERSEY, PENNSYLVANIA, VIRGINIA

EVALUATION OF NARM CASEWORK DURING IMPEP REVIEWS (FSME-07- 033)

Purpose: To notify the Agreement States that the U.S. Nuclear Regulatory Commission (NRC) will begin to evaluate casework involving materials added, by the Energy Policy Act of 2005 (EPAct), to the scope of byproduct material as defined in Section 11e.(3) and 11e.(4) of the Atomic Energy Act of 1954, as amended, (AEA) during Integrated Materials Performance Evaluation Program (IMPEP) reviews. This letter is for information only. No reply is requested.

Background: As described in previous communications, the NRC is implementing its new regulatory authority under the expanded definition of byproduct material contained in the EPAct. The expanded definition of byproduct material includes certain Naturally Occurring and Accelerator Produced Radioactive Material (NARM) previously regulated by the Agreement States.

Discussion: As indicated in our letter (FSME-07-023), dated March 7, 2007, the NRC intends to terminate the waiver, in conjunction with the effective date of the final rule for all Agreement States that provide a certification from the Governor to the Commission, on the date of publication of the NRC's Transition Plan. The certification letter documents that the State has a program for licensing byproduct material, as defined in paragraph (3) or (4) of Section 11e. of the AEA, which is adequate to protect public health and safety, and that the State intends to continue to implement its authority with respect to the new byproduct material. Upon acceptance of the certification by the Commission and termination of the waiver, the State's Agreement will be considered to include AEA Section 11e.(3) and 11e.(4) byproduct material.

To verify that an Agreement State's program with respect to NARM is adequate to protect public health and safety and compatible with NRC's program, the NRC will use the established IMPEP performance criteria in Management Directive 5.6, *Integrated Materials Performance Evaluation Program*. IMPEP review teams will include regulatory actions involving NARM, such as licensing, inspection, and incident response actions, in their overall program assessments. For example, IMPEP review teams will evaluate a State's timeliness in reporting events involving NARM.

Casework evaluations involving NARM will be performed in accordance with existing IMPEP policies and procedures. Emphasis will be placed on regulatory actions involving NARM that occurred after the date of the termination of the waiver; however, it is conceivable that IMPEP review teams may need to evaluate certain regulatory actions that occurred prior to the waiver's termination in order to determine the root cause of a potential weakness.

The inclusion of NARM in IMPEP reviews is applicable to the NRC Regional radioactive materials programs as well.

If you have any questions on this correspondence, please contact me at 301-415-3340 or the individuals named below.

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