

June 16, 2010

ALL AGREEMENT STATES, MICHIGAN

OPPORTUNITY TO COMMENT ON PROPOSED RULE TO AMEND 10 CFR PARTS 30, 32, 33, 34, 35, 36, 37, 39, 51, 71, and 73 – PHYSICAL PROTECTION OF BYPRODUCT MATERIAL (FSME-10-048)

Purpose: To notify the Agreement States that a proposed rule on “Physical Protection of Byproduct Material” was published in the *Federal Register* for public comment and to inform the Agreement States that the U.S. Nuclear Regulatory Commission (NRC) will be contacting licensees potentially impacted by the proposed rule.

Discussion: The NRC is proposing to amend its regulations to include a new Part 37 to Title 10 of the Code of Federal Regulations that addresses security requirements for the use of category 1 and category 2 quantities of radioactive material. The proposed rule includes new requirements for background investigations, enhanced security during use, and transportation security. The proposed rule was published in the *Federal Register* (75 FR 33902) on June 15, 2010. The rule is posted at <http://www.regulations.gov> under Docket ID NRC-2008-0120. The public comment period ends October 13, 2010. A copy of the Federal Register Notice is enclosed.

Under the “Policy Statement on Adequacy and Compatibility of Agreement State Programs” approved by the Commission on June 30, 1997, and published in the *Federal Register* on September 3, 1997 (62 FR 46517). This rule involves regulations that have been assigned compatibility category “A,” “B,” “C,” “D,” “H&S,” and “NRC.” Section-specific compatibility designations are found in the “Agreement State Compatibility” section of the *Federal Register* notice.

The NRC is also issuing draft implementation guidance for public comment. This document will be available at <http://www.regulations.gov> under Docket ID NRC-2010-0194. The guidance document is also available in ADAMS at accession number ML101470684. The NRC is planning to hold two public meetings on the draft implementation guidance later this year. Once the arrangements for these meetings are finalized, there will be a meeting notice published in the *Federal Register*, posted at <http://www.regulations.gov> under Docket ID NRC-2010-0194, and posted on the NRC’s public meeting listing on the NRC website at <http://www.nrc.gov/public-involve/public-meetings/index.cfm>.

The NRC is sending a letter to licensees that received security orders to inform them of the opportunity to comment on the proposed rule and the implementation guidance. A copy of that letter is enclosed for your information and use. You will be notified once the public meetings on the implementation guidance are scheduled.

NRC Point of Contact: If you have any questions regarding this correspondence, please contact me at 301-415-7278 or the individual named below.

POINT OF CONTACT: Merri Horn
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/RA M. Thaggard for/

Mark R. Shaffer, Director
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and Rulemaking
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:

1. Federal Register Notice
2. Letter to Licensees

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