

October 25, 2006

ALL AGREEMENT AND NON-AGREEMENT STATES  
STATE LIAISON OFFICERS

**DRAFT TRANSITION PLAN FOR COMMENT (FSME-06-097)**

**Purpose:** To provide States a copy of the Commission's Staff Requirements Memorandum on the Transition Plan (Enclosure 1) and a draft Transition Plan (Enclosure 2) approved by the Commission, for your review and comment.\* Comments are requested within 30 days of the date of this letter. A draft sample letter for use by Agreement State Governors in preparing their certification of the adequacy of the State's program for regulating the new byproduct material will be provided to you under separate cover.

**Background:** As described in previous communications, the U.S. Nuclear Regulatory Commission (NRC) is implementing its new regulatory authority under the expanded definition of byproduct material contained in the Energy Policy Act of 2005 (EPAAct). The expanded definition of byproduct includes certain Naturally Occurring and Accelerator Produced Radioactive Material (NARM) previously regulated by States. The EPAAct requires the Commission to publish a plan for the transition of authority in adopting rules to implement the expanded definition.

**Discussion:** The draft Transition Plan was developed by a joint NRC - State Task Force and approved by the Commission. The Commission required only one change to the version that was provided to you for information in FSME-06-093, dated October 6, 2006. See the redlined text (vertical bars in right margin) in Section VI.B.2; beginning on page 9 of the enclosure.

After receiving comments from the States, NRC will prepare a final Transition Plan. The final plan is expected to be published between February 8 and April 8, 2007. NRC will then use the plan to implement its new regulatory authority, or to transition the authority to States under Section 274b agreements. Copies of the final plan will be provided to States prior to its publication.

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\*This information request has been approved by OMB 3150-0029, expiration 06/30/07; OMB 3150-0200, expiration 06/30/2009; and OMB 3150-0163, expiration 09/30/2006\*. The estimated burden per response to comply with this voluntary collection is approximately 8 hours. Send comments regarding the burden estimate to the Records and FOIA/Privacy Services Branch (T-5F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by Internet e-mail to [infocollects@nrc.gov](mailto:infocollects@nrc.gov), and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202 (3150-0029, 3150-0200, 3150-0163), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

\*This information request has previously been approved by OMB 3150-0163 and was resubmitted to OMB for review of continued approval of information collection.

**Action:** Please review and comment on the enclosed draft Transition Plan within 30 days of the date of this letter. Comments received after that will be considered if possible, however be aware that in order to meet the requirements of the EPAct and provide a timely copy of the final plan, NRC staff will need to complete the final plan as soon as practical.

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

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Division of Materials Safety and State Agreements  
Office of Federal and State Materials  
and Environmental Management Programs

Enclosures:  
As stated

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