

July 12, 2010

ALL AGREEMENT STATE RADIATION CONTROL PROGRAM DIRECTORS

**OPPORTUNITY TO COMMENT ON PROPOSED RULE ON REQUIREMENTS FOR
DISTRIBUTION OF BYPRODUCT MATERIAL (FSME-10-056)**

Purpose: To notify the Agreement States that a proposed rule on Requirements for Distribution of Byproduct Material was published in the *Federal Register* for public comment and to request notification of certain Agreement State licensees of the opportunity to comment.

Background: The NRC is proposing to amend its regulations in Title 10 of the *Code of Federal Regulations*, Parts 30, 31, 32, 40, and 70 concerning distribution of byproduct material. These amendments resulted from a systematic assessment of the U.S. Nuclear Regulatory Commission's (NRC's) regulatory program concerning exemptions from licensing and an initiative to make NRC's regulatory program more risk-informed. The proposed rule was published in the *Federal Register* (75 FR 36211) on June 24, 2010 (Enclosure 1). The rule is posted on <http://www.regulations.gov> under Docket ID NRC-2008-0338.

These amendments would make the requirements for distributors of byproduct material clearer, less prescriptive, more risk-informed and up to date, redefine categories of devices to be used under exemptions from licensing, add explicit provisions regarding the sealed source and device registration process, and add flexibility to the licensing of users of sealed sources and devices. These changes would affect manufacturers and distributors of sources and devices containing byproduct material and future users of some products currently used under a general or specific license. As manufacturers and distributors in Agreement States may also be interested in commenting, we request that you inform them of this opportunity. A copy of NRC's letter to potentially affected licensees is enclosed for your information and use.

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 categories "B," "C," "D," and "NRC." Section-specific compatibility designations are found in the "Agreement State Compatibility" section of the *Federal Register* notice.

If you have any questions regarding this correspondence, please contact me at 301-415-7278 or the individual named below. Please note the comment period on the proposed rule ends on September 7, 2010.

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Enclosures:

1. *Federal Register* Notice
2. Letter to Licensees

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