



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

(STP-06-071, August, Other, activities related to NARM rulemaking)

August 8, 2006

ALL AGREEMENT AND NON-AGREEMENT STATES
ALL STATE LIAISON OFFICERS

**FORTHCOMING ACTIVITIES RELATED TO THE ENERGY POLICY ACT OF 2005,
EXPANDED DEFINITION OF BYPRODUCT MATERIAL- NARM RULE (STP-06-071)**

Purpose: To provide a status report on various activities related to the NARM rulemaking.

Background: During the recent NRC/OAS/CRCPD conference call, the States requested that we provide a status and schedule of forthcoming activities related to the NARM rule. During the call, there may have also been some confusion over certain forthcoming letters to each Governor and other actions involved in implementing the Energy Policy Act.

Discussion: We are currently pursuing the activities and timelines listed below. Some items are for information only at this time, while others have comment periods associated with them. We have grouped them accordingly.

Information only:

During August 2006, we expect to forward a letter from the NRC Chairman to the Governor of each State and Territory to request information for NRC's use in the budget planning process. Slightly different letters were prepared for Agreement States, Non-Agreement States, and States that have submitted letters of intent.¹ Specifically, the letter requests information on the State's intent to regulate NARM as byproduct material and related matters. We respectfully request a response from the Governor within 30 days of the date of the Chairman's letter. A copy of the letter to the Governor will be promptly sent electronically to each Radiation Control Program Director and State Liaison Officer.

For comment:

1. The proposed NARM rule was published in the *Federal Register* (FR) on July 28, 2006 (71 FR 42952). **The comment period ends on September 11, 2006 on the rule, and August 27, 2006, on any associated information collection requirements.** As described, STP-06-068 provides the portable document format (PDF) file for both the proposed rule and the environmental assessment.

¹A letter will not be sent to Pennsylvania since a draft Agreement application is currently under NRC review and the State has indicated its current schedule for the final submittal.

2. The staff, in consultation with State representatives, has developed a draft transition plan for Commission approval and then State review and comment. We expect to submit the draft transition plan to the Commission in August for their approval. Once the Commission has approved the draft transition plan, we will provide copies to the States for comment (early fall). **We would appreciate receipt of your comments on the draft transition plan within 30 days of issuance to the States.** After receiving the comments, we will finalize the transition plan and publish it in final form to coincide with issuance of the final rule.
3. The staff is developing a sample letter, to be signed by the Governor and sent to the NRC Chairman, that would be used by the State to comply with the program certification requirement of the Energy Policy Act of 2005. **We expect to forward the draft letter to the States for review and comment in September, and would appreciate receipt of your comments within 30 days.** After receiving the comments, we will promptly finalize the sample Governor's certification letter and distribute it to the States for your consideration and use.

The draft transition plan includes a method for amending an existing State Agreement by the certification of the Governor as described in the Energy Policy Act. The approach proposed in the draft transition plan envisions submission of Governors' certifications as soon as this fall and as late as the publication of the final transition plan. In any case, NRC expects that the final rule would be published by early February 2007. Regardless of when the Governor's certification would be submitted to and accepted by NRC, NRC will consider the certification to be effective on the date of publication of the final transition plan. The States will be kept fully informed of the expected publication date of the final transition plan.

We are available to discuss the above items and plan to provide an overview of this Office of State and Tribal Programs' letter during the NRC/OAS/CRCPD monthly conference call scheduled for August 16, 2006 @ 3:00 p.m. (EST). We also plan to continue to interact regularly with the States on the matters associated with the transition plan, Governor's certification, and rulemaking.

If you have any questions on this correspondence, please contact me at (301) 415-4430 or the individual named below.

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