

September 19, 2007

The Honorable Rick Boucher
Chairman, Subcommittee on Energy and Air Quality
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The U.S. Nuclear Regulatory Commission (NRC) intends to publish a final rule titled "Requirements for Expanded Definition of Byproduct Material," in the *Federal Register*, that amends Title 10 of the *Code of Federal Regulations*, Parts 20, 30, 31, 32, 33, 35, 50, 61, 62, 72, 110, 150, 170, and 171.

The Energy Policy Act of 2005 expanded the definition of byproduct material in Section 11e. of the Atomic Energy Act of 1954. The final rule establishes the regulatory framework for certain discrete sources of radium-226, accelerator-produced radioactive material, and discrete sources of naturally occurring radioactive material, as required by Section 651(e) of the Energy Policy Act of 2005. Specifically, this final rule: (a) revises the definition for "byproduct material;" (b) adds a definition for "discrete source;" and (c) amends existing regulations and includes additional provisions to provide the regulatory framework for the newly expanded byproduct material.

The Commission issued a waiver (70 FR 51581; August 31, 2005) which applies to Agreement and non-Agreement State regulatory programs and users of the newly added byproduct material, which allows continued activities involving the material and allows the States to continue to regulate the material during the applicable waiver period. The Commission is terminating the waiver for Government agencies, Federally recognized Indian Tribes, Delaware, Indiana, Montana, Wyoming, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands on the effective date of this rule. Waiver termination is necessary to require persons to comply with the new requirements and to ensure protection of the public health and safety.

Sincerely,

/RA/

Rebecca L. Schmidt, Director
Office of Congressional Affairs

Enclosure: *Federal Register* Notice

cc: Representative J. Dennis Hastert

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Chairman, Subcommittee on Energy and Air Quality
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Office of Congressional Affairs

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cc: Representative J. Dennis Hastert

**Identical Letter sent to The Honorable Thomas R. Carper with cc: to Senator George V. Voinovich,
The Honorable John D. Dingell with cc: to Representative Joe Barton
The Honorable Barbara Boxer with cc: to Senator James M. Inhofe**

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September 19, 2007

The Honorable Thomas R. Carper
Chairman, Subcommittee on Clean Air
and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The U.S. Nuclear Regulatory Commission (NRC) intends to publish a final rule titled "Requirements for Expanded Definition of Byproduct Material," in the *Federal Register*, that amends Title 10 of the *Code of Federal Regulations*, Parts 20, 30, 31, 32, 33, 35, 50, 61, 62, 72, 110, 150, 170, and 171.

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Rebecca L. Schmidt, Director
Office of Congressional Affairs

Enclosure: *Federal Register* Notice

cc: Senator George V. Voinovich

September 19, 2007

The Honorable Barbara Boxer
Chairman, Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Madam. Chairman:

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Office of Congressional Affairs

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September 19, 2007

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Chairman, Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

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