

PART 40 INTERAGENCY JURISDICTIONAL WORKING GROUP

December 3, 2007

Purpose and Desired Outcome

□ Purpose

- Continue deliberations of previous IJWG to determine best approach to delineate responsibilities for low-levels of source material
- Discuss whether previous assumptions are still valid
- Discuss any new related information that could impact existing recommendation

□ Desired Outcome

- For working group to reach a consensus to continue to support existing recommendation or make a new recommendation

AGENDA

- **Greetings/Introductions/Purpose of Meeting**
- **Activities to Date**
- **New Issues for Consideration**
- **Legislative Approach vs. Alternatives**
- **Options with Focus on Outcomes**
- **Future Actions**
- **Summary and Closing Remarks**

IJWG ACTIVITIES TO DATE

Background

- ❑ SECY-99-259, November 1999, “Exemption in 10 CFR Part 40 for Materials Less than 0.05 Percent Source Material – Options and Other Issues Concerning the Control of Source Material”
 - Addresses background of the exemption in 10 CFR 40.13(a)
 - Definition of source material
 - Origin of 0.05 percent based on concentration of source material necessary to be a useful source of fissionable material

Background (cont)

- ❑ SRM, March 9, 2000
 - Initiate interaction with States and other Federal agencies to explore best approach to delineate the responsibilities for low-level source material
 - Address risks from NORM, TENORM, low-level source material, and materials containing less than 0.05% by weight uranium and/or thorium
 - Evaluate existing and planned regulation of such materials
 - Assess the willingness of other agencies to assume responsibilities for certain levels of source material

Agencies/Organizations Represented



- U.S. Nuclear Regulatory Commission
- Organization of Agreement States/Conference of Radiation Control Program Directors
- U.S. Environmental Protection Agency
- Occupational Safety and Health Administration, Department of Labor
- U.S. Department of Energy
- Department of Transportation
- U.S. Army Corps of Engineers, Department of Defense
- Mining Safety and Health Administration, Department of Labor

IJWG Activities

- ❑ Formed 9/2000
- ❑ Held several public meetings between 2000 – 2002
- ❑ Areas Evaluated
 - Background/history of Part 40 issues
 - Jurisdictional issues/authorities
 - Planned/existing regulations of each agency
 - Existing reports and regulations
 - Results of NUREG-1717, “Systematic Radiological Assessment of Exemptions for Source and Byproduct Materials”
 - Suggested State Regulations, Part N- TENORM

IJWG Activities (cont)

- Areas Evaluated (cont)
 - Other ongoing activities/issues related to Section 40.13(a) and the regulation of NORM
 - Desire for a consistent framework
 - Inconsistencies in existing source material regulations
 - Impediments to the regulation of uranium and thorium by other agencies
 - Impacts on existing treaties
 - Impacts on regulation of existing NRC licensees and complex decommissioning sites
 - Impact on FUSRAP sites
 - Alternate feed regulations

IJWG Activities (cont)

☐ Methodology

- Determine existing agency responsibilities
- Evaluate health and safety data and other applicable info
- Examine impacts of 3 overall options
 - No change
 - Increase NRC regulation
 - Decrease NRC regulation
- Evaluated pros and cons of each option
 - Impacts to health and safety
 - Consistency with existing regulations
 - Impact to other commitments (treaties, etc.)
 - Impact on agency resources
 - Impact on NRC licensees and non-licensees
 - Impact on public confidence
 - Impacts on security initiatives

IJWG Activities (cont)

☐ Methodology (cont)

- Evaluate ways to implement each option
- Select preferred approach
- Select best way to implement preferred approach

IJWG Recommendations

- ❑ SECY-03-0068, May 1, 2003, “Interagency Interagency Jurisdictional Working Group Evaluating the Regulation of Low-Level Source Material or Materials Containing Less Than 0.05 Percent by Weight Concentration Uranium and/or Thorium”
 - Decrease NRC authority by limiting NRC authority to uranium and thorium that are extracted/purposely concentrated for the use of uranium or thorium
 - Formally solicit comments on the above approach from impacted Federal agencies and individual States
 - Specifically obtain input from the States to determine where there are sites currently regulated under AEA authority that would be affected by the recommended approach
 - Coordinate with the State Department regarding impacts on international Agreements of Cooperation

Impacts of Recommendations

- ❑ NRC would only regulate uranium and thorium that are extracted or purposely concentrated for the use of the uranium or thorium
- ❑ All other uranium and thorium incidental to a process would be considered naturally occurring radioactive material (no longer considered source material under the AEA)
- ❑ Regulation of naturally-occurring uranium and thorium would be through existing standards/regulations via States/EPA/OSHA programs
- ❑ Limits *de facto* dual regulation (i.e., regulate different components within the same material by various agencies)
- ❑ Provides more consistency within NRC regulations

SRM to SECY-03-0068

- ❑ Staff requirements memorandum issued October 9, 2003
- ❑ Commission disapproved staff's proposal to seek legislation
- ❑ Commission agreed that staff recommendation is best approach
- ❑ However, Commission disapproved staff's proposal to seek legislation at that time
 - Believed effort to achieve legislation would likely be unsuccessful
 - Did not want staff to expend resources on developing legislation
 - Directed staff to instead focus on the high priority rulemakings

SRM to SECY-03-0068 (cont)

- ❑ Approved staff action to continue discussing recommendations with States and other Federal agencies to gauge level of support
- ❑ Directed staff to explore alternatives to legislation for achieving recommended approach

Latest NRC Activities



- ❑ NRC placed activity as low priority
 - Minimal resources expended between 2003 - 2006

- ❑ SRM, dated August 2, 2006, to SECY-06-0117, “Termination of Nuclear Regulatory Commission License for the Heritage Minerals Inc. Site in Manchester Township, New Jersey”
 - Directed staff to provide Commission with plan to accelerate activities of the IJWG
 - Directed staff to pursue legislative or alternative approach

List of Acronyms

AEA	Atomic Energy Act of 1954, as amended
EPA	U.S. Environmental Protection Agency
FUSRAP	Formerly Utilized Sites Remedial Action Program
IJWG	Part 40 Interagency Jurisdictional Working Group
NORM	naturally-occurring radioactive material
NRC	U.S. Nuclear Regulatory Commission
OSHA	Occupational Safety and Health Administration
SRM	Staff Requirements Memorandum
TENORM	technically-enhanced naturally-occurring radioactive material