



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

January 11, 2008

Tetra Tech EC, Inc.
ATTN: Clifford J. Stephan
Radiation Safety Officer
3200 George Washington Way
Suite G
Richland, WA 99354

SUBJECT: RESPONSE TO 14 DAY NOTIFICATION
LICENSE NUMBER 46-27767-01

By letter dated November 5, 2007, you provided notification to this office that you would initiate certain activities under the subject license at Alameda Point, formerly Naval Air Station (NAS) Alameda, in California. Your letter stated that those activities involved radium-226. Our records also document there was only radium-226 at this facility, based on the historical site assessment.

The Energy Policy Act of 2005 (EPAct) expanded the definition of "byproduct material" to include discrete sources of radium-226 and material made radioactive by a particle accelerator. The revised regulations were published in the *Federal Register* (72 FR 55864) on October 1, 2007. The regulations became effective on November 30, 2007. Additionally, a Transition Plan was published in the *Federal Register* (72 FR 59157) on October 19, 2007. The Transition Plan documents three phases for the waiver terminations, which had been issued on August 31, 2005. The waivers were issued to: (1) allow States to continue with their regulatory programs for NARM; (2) allow persons engaged in activities involving NARM to continue with their operations in a safe manner; and (3) allow continued use of radiopharmaceuticals for medical purposes.

The waivers for Agreement States were terminated on the effective date of the rule, November 30, 2007, which coincides with phase one of the Transition Plan. Therefore, Tetra Tech EC, Inc., which resides in an Agreement State, should submit a license amendment within six months if necessary, for any sources or activities affected by the revised definition of byproduct material. Radium-226 is already authorized on your license under Item 6.C. However, if you have any calibration or check sources which are not authorized under the general license, then you will have to request a license amendment to add those sealed sources to your license, if you intend to use the sources at temporary jobsites in exclusive Federal jurisdiction. Additional information regarding the revised regulations and the Transition Plan are available on the NRC web site at: <http://nrc-stp.ornl.gov/narmtoolbox.html>.

The Statement of Considerations for the revised regulations, as published in the *Federal Register*, states in part, that naturally-occurring and accelerator-produced radioactive material (NARM) is excluded from the EPAct only as it applies to certain types of military use. Additionally, the Statement of Considerations states:

"The NRC intends to interact with the Department of Defense [DoD] to obtain a common understanding of the uses of radium-226 and accelerator-produced radioactive material by the military to resolve any potential issues regarding the application of the Commission's interpretation of the EPAct in regard to any specific case of military use."

The agency has been working with the DoD and continues to develop the agency policy regarding the definition of military use and the exclusion of NARM under military operations from the coverage of this rule. Since the regulatory jurisdiction of NARM under military use has not been finalized, Region IV submitted your notification letter dated November 5, 2007 to our Headquarters office under a Technical Assistance Request (TAR). A TAR is an internal document, whereby the Regional office may request assistance from our Headquarter's staff regarding a policy or programmatic issue. Once we have received a response to the TAR, regarding whether the NRC has jurisdiction over the activities at Alameda Point, we will provide a final response back to you.

Until the response to the TAR is received, please continue to provide notifications to this office in accordance with your License Condition 14, for any activities involving radium-226 at military facilities or under military use. If you have any questions regarding this matter, please contact me at (817) 276-6552.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the NRC document system (ADAMS). ADAMS is accessible from the NRC Web site at: <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

/RA/

Rachel S. Browder, Health Physicist
Nuclear Materials Licensing Branch

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