

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: Chairman Allison M. Macfarlane

SUBJECT: SECY-14-0082: Jurisdiction for Military Radium and
U.S. Nuclear Regulatory Commission Oversight of U.S.
Department of Defense Remediation of Radioactive
Material

Approved ☒ Disapproved ☐ Abstain ☐

Not Participating ☐

COMMENTS: Below ☐ Attached ☒ None ☐



SIGNATURE

11/4/14

DATE

Entered on "STARS" Yes ☐ No ☐

Chairman's vote on SECY-14-0082: Jurisdiction for Military Radium and U.S. Nuclear Regulatory Commission Oversight of U.S. Department of Defense Remediation of Radioactive Material

I approve the staff's recommendation to finalize and implement the key provisions of a Memorandum of Understanding (MOU) with the Department of Defense (DOD) for remediation of DOD sites containing radioactive materials subject the NRC's regulatory authority. As described by staff in SECY-14-0082, the MOU should be a written agreement that establishes a consultation process, exchange of information, and NRC involvement with DOD's remediation under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process. For awareness, staff should provide the Commission the Final Draft of the MOU before it is signed.

While I approve the staff's recommendation, I do have some concerns with the MOU approach. I am concerned with the staff's ability to address dispute resolution related to the MOU. Specifically, staff noted the possibility that challenging conflicts important to protection of public health and safety and the environment could arise between NRC and DOD that could not be resolved by the provision in the MOU for conflict resolution. Thus, I approve the staff's recommendation to periodically evaluate the effectiveness of the MOU, particularly for dispute resolution. Staff should report the outcome of this evaluation to the Commission on a biennial basis. If the MOU is found to be ineffective in resolving disputes, staff should recommend appropriate actions, including regulatory actions, to the Commission.

Furthermore, I approve including the regulatory costs associated with the MOU in the 10 percent of the NRC's budget that is not recovered through fees (i.e. off fee base and recovered through Congressional appropriations). As such, I approve development of a new fee relief category for the regulatory activities under the MOU. However, I note that I am concerned about the precedence that this establishes in terms of the budgetary burden to the NRC in the future. The determination as to whether the NRC should include sites in addition to those initially stipulated by the MOU should be handled on a case-by-case basis.

Lastly, I approve completion and publication of the Regulatory Information Summary (RIS), entitled 2011-XX, "NRC Regulation of Military Operational Radium-226." Staff should work with DOD while developing the planned "Radium [and other radiological materials] Implementation Plan" as requested by DOD in their submitted comments to the RIS. The timeline for developing this plan should coincide with the finalization of the Regulatory Information Summary associated with these activities.