

MOU Between DoD and NRC

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Overview

- Purpose
- Background
- RIS (2016-06) and MOU
- Implementation of MOU with DoD
- RIS and MOU benefits
- Potential Agreement State involvement
- DoD service providers
- Three NRC regulatory processes
- Conclusions



Purpose

- Give background on NRC's jurisdiction over radium
- Discuss NRC's involvement with military remediation
- Provide an update on the Memorandum of Understanding (MOU) and Regulatory Issue Summary (RIS)
- Explain NRC's role under the MOU
- Discuss the potential role for Agreement States (AS)

Background on NRC's Jurisdiction over Radium

- Energy Policy Act of 2005 (EPAAct) expanded the Atomic Energy Act's (AEA) definition of byproduct material to include discrete sources of radium-226
- NRC regulations implemented provisions of the EPAAct in 2007 and defined the term “discrete source”
- A discrete source is “a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities” and any contamination from that source.



Background on NRC's Jurisdiction over Radium

- NRC has jurisdiction over discrete sources of radium-226 used by the military in medical or research activities or in a manner similar to a commercial activity.
- NRC does not have jurisdiction over radium-226 used by the military in military operations (e.g., combat or training)

Background on NRC's Jurisdiction over Radium

- In 2007 the Commission directed the NRC staff to interact with DoD regarding military uses of radium
- Uncertainty over precise meaning and scope of NRC's jurisdiction of military radium
- MOU developed as a way for NRC and DoD to work together; avoid dual regulation; and avoid jurisdiction disagreements
- NRC developed a RIS (2016-06) and MOU



RIS (2016-06)

- Published May 9, 2016
- Clarifies NRC's jurisdiction for military radium
 - radium or items and equipment containing radium not used in or intended for use in military operations
 - Confirmed contamination
- Regulatory approaches
 - MOU for confirmed contamination (radium and other unlicensed AEA material)
 - Licensing for items and equipment
- NRC responses to public comments on the draft RIS



MOU

- Signed April 28, 2016
- Purpose
 - Minimize dual regulation while ensuring protection
 - Documents roles, responsibilities, and relationship between NRC and DoD
- Scope
 - Sites with DoD response actions under CERCLA/DERP to address confirmed releases of unlicensed radioactive material subject to AEA
 - Buildings being remediated, but not licensed
 - Active installations, BRAC properties, and FUDS

MOU

- Content of MOU
 - Communication/contacts
 - Annual site inventory
 - Coordination and planning
 - Access to information and sites
 - NRC involvement (stay informed or monitor)
 - NRC dose criteria
 - NRC technical assistance
 - Records
 - Service provider licenses
 - Funding
 - Dispute resolution



Implementation of MOU with DoD

- DoD annual site inventory completed
- Two types of NRC involvement
 - “Stay informed” - EPA has regulatory oversight (NPL sites)
 - “Monitoring” - EPA does not have regulatory oversight (non-NPL site)



Benefits Resulting from the RIS and MOU

- Clarifies jurisdictional boundaries
- Avoids dual regulation
- Clarifies the regulatory approach for remediation
- Provides independent federal oversight to ensure protection of public health and safety



Potential Agreement State Involvement

- Keep each other informed
- Service provider license coordination
 - Jurisdictional questions
 - Coordination of activities at sites with dual jurisdiction



DoD Service Providers

- DoD service providers involved with remediation must have an NRC or AS license (e.g., reciprocity)
- NRC guidance on determining jurisdiction (FSME-14-039, “Clarification on the Determination of Regulatory Jurisdiction of Nonfederal Entities Conducting Cleanup Activities on Federal Property in Agreement States.”)
- Under the MOU
 - DoD verifies that its service providers use NRC guidance to determine appropriate license
 - DoD will provide appropriate land jurisdiction to service providers
- NRC plans to coordinate its service provider inspections with its future MOU activities

Three NRC Regulatory Processes

- Three different processes and requirements
 - Licensed sites: Follow NRC decommissioning requirements and MML license requirements
 - NRC/DoD MOU sites: involvement at unlicensed sites; CERCLA/DERP requirements and MOU provisions
 - Licensed service providers: DoD contractors conducting remediation at both licensed and MOU sites; NRC and/or Agreement State license requirements



Conclusions

- MOU implementation has started
- AS and NRC will need to coordinate service-provider activities
- NRC's goal is to work with the Army towards successful MOU implementation without being disruptive to existing plans.

