



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001

June 3, 2020

Brigid Lowery, Director
Assessment and Remediation Division
Office of Superfund Remediation
and Technology Innovation
U.S. Environmental Protection Agency
M.S. 5204P
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Ms. Lowery:

The U.S. Nuclear Regulatory Commission (NRC) is documenting and requesting confirmation of our shared understanding that uranium recovery and uranium mill tailings sites decommissioned pursuant to Title 10 of the *Code of Federal Regulations (10 CFR)*, Part 40, Appendix A are outside the scope of the Memorandum of Understanding (MOU) on "Consultation and Finality on Decommissioning and Decontamination of Contaminated Sites". This was signed October 9, 2002 between the U.S. Environmental Protection Agency (EPA) and the NRC.

As discussed in the MOU, EPA expressed its intention to continue its Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) deferral policy of not listing sites on the National Priorities List that are subject to NRC's licensing authority. The MOU discusses the criteria that trigger consultation with the EPA for NRC-licensed sites (i.e., groundwater contamination in excess of EPA's maximum contaminant levels (MCL); exceedance of MOU Table 1 soil values; and, use of restricted release or alternate criteria for license termination). The MOU provides that, unless an NRC-licensed site exceeds any of the three trigger criteria contained in the MOU, EPA agrees to a policy of deferral to NRC decision making on decommissioning without the need for consultation. Since 2002, the NRC and EPA have used the MOU to cooperate and coordinate at several materials and reactor sites undergoing decommissioning, thereby helping to avoid unnecessary dual regulation and helping to ensure that the sites are decommissioned in a safe and timely manner.

Occasionally, the NRC staff is asked about the scope of the MOU with respect to uranium recovery and mill tailings disposal sites that are decommissioned pursuant to the criteria in 10 CFR Part 40, Appendix A. As we have discussed in the past, consistent with the development and implementation of the MOU, uranium recovery and uranium mill tailings disposal sites are outside the scope of the MOU.

The MOU addresses the Part 20 Subpart E cleanup criteria and the CERCLA cleanup process at NRC materials and reactor sites undergoing decommissioning. Specifically, Section C of the MOU refers to the 10 CFR Part 20, Subpart E criterion in 10 CFR 20.1403 and 10 CFR 20.1404. Subpart E specifically excludes uranium recovery and mill tailings disposal sites, as they are instead subject to 10 CFR Part 40, Appendix A. In addition, as NRC uranium recovery and mill tailing disposal site regulations conform to EPA standards in 40 CFR Part 192, the dual

regulation concern under CERCLA and 10 CFR Part 20 addressed by the MOU is not present for such sites.

The NRC is in the process of updating Volume 1 of NUREG-1757, "Consolidated Decommissioning Guidance," and intends to include clarification on the scope of the MOU in this revision. This revision will ensure that, in the future, the NRC and EPA staff have a readily available reference to point to when asked by stakeholders about the scope of the MOU with respect to uranium recovery sites, consistent with its terms. We discussed this with your staff several times in developing this letter. Therefore, we are requesting confirmation of our shared understanding that uranium recovery and uranium mill tailings sites decommissioned pursuant to 10 CFR Part 40, Appendix A are outside the scope of the MOU, prior to our issuing the revision to NUREG-1757.

If you have any questions concerning this letter, please contact Dr. Leah Parks at 301-415-0352 or Leah.Parks@nrc.gov.

Sincerely,

Patricia K. Holahan, Director
Division of Decommissioning, Uranium Recovery
and Waste Programs
Office of Nuclear Material Safety
and Safeguards

SUBJECT: CLARIFICATION REGARDING OCTOBER 9, 2002, U.S. NUCLEAR REGULATORY COMMISSION AND U.S. ENVIRONMENTAL PROTECTION AGENCY MEMORANDUM OF UNDERSTANDING ON "CONSULTATION AND FINALITY ON DECOMMISSIONING AND DECONTAMINATION OF CONTAMINATED SITES"
DATE: June 3, 2020

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