

June 26, 2008

MEMORANDUM TO: R. W. Borchardt
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS – SECY-08-0077 – OPTIONS FOR
U.S. NUCLEAR REGULATORY COMMISSION INVOLVEMENT
WITH THE NAVY'S REMEDIATION OF THE HUNTERS POINT
NAVAL SHIPYARD SITE IN CALIFORNIA

The Commission has approved the staff's recommended Option 2, to rely on the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process, as implemented with Environmental Protection Agency (EPA) oversight, to ensure adequate protection of the public health and safety in the decommissioning of the Hunters Point Naval Shipyard; with the exception of the proposed negative response to the State of California's request for technical assistance.

The staff should work with the California Department of Public Health (DPH) in accordance with Section C of the Handbook, Management Directive 5.7, "Technical Assistance to Agreement States," to determine if special technical expertise assistance could be provided. Any NRC assistance would be cost-reimbursable and, as resources permit, the staff should look agency-wide for the necessary technical expertise. Under this directive, DPH will be required to document more fully how it meets the criteria for requesting technical assistance. Specifically, DPH would need to document (1) the specific limited and focused assistance requested from the NRC, (2) how this request relates to a licensing or inspection activity under California's Agreement with the NRC, and (3) that DPH has attempted to obtain this assistance without success from other Agreement States, the Organization of Agreement States (OAS), or the Conference of Radiation Control Program Directors (CRCPD). As part of the evaluation for providing technical assistance to Agreement States, the staff should explicitly consider the appropriateness of the NRC providing technical assistance to a CERCLA remediation project.

The sample letter included with SECY-08-0077 should be modified as follows:

- a. The letter needs to respond directly to the question asked by the Navy regarding NRC's new jurisdiction for radium-226 under the Energy Policy Act of 2005 by including the following statement from the SECY paper: "[T]he Statements of Consideration (SOC) for NRC's recently-established Naturally Occurring and Accelerator Produced Radioactive Materials (NARM) rule states that radium-226, still in control of the military and that was used for military operations, is outside of NRC's jurisdiction."
- b. The letter should explain more fully the bases upon which the NRC "has decided that the most effective and efficient approach is to defer its authority." These bases are described in the paper [i.e., that although terminated AEC-licensed material may be

present at Hunters Point Naval Shipyard, such materials would now be inextricably commingled with atomic weapons testing material over which the NRC has no jurisdiction and that over-layering NRC requirements on the CERCLA process already underway provides no clear public health and safety benefit].

cc: Chairman Klein
Commissioner Jaczko
Commissioner Lyons
Commissioner Svinicki
OGC
CFO
OCA
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR