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Chief, Rules, Announcements, and Directives Branch (RADB)
Office of Administration, Mail Stop: TWB-05-B01M
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: Docket ID NRC-2011-0146

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Thank you to the NRC for providing opportunity to comment on this RIS: **Proposed Generic Communications; Draft NRC Regulatory Issue Summary 2011-XX; NRC Regulation of Military Operational Radium-226.**

The information which clarifies the NRC role at military sites with Radium-226 and it appears to indicate that the NRC does currently have jurisdiction over most sites with soil contaminated with Ra-226 and over sites with buried or disposed discrete sources containing Radium-226.

It would be helpful if the NRC could add some information to the RIS addressing the restricted release process provided under NRC regulations and how it applies to military sites where Ra-226 wastes are left buried in disposal pits and landfills. It appears that the NRC restricted release process is more rigorous and restrictive than the CERCLA process, under which EPA and other stakeholders commonly allow capping of landfills and disposal pits containing elevated levels of chemical waste. They indicate that these landfills are analogous to municipal landfills. Given the long physical half-life of Ra-226, it seems like the less restrictive CERCLA process should not be deferred to by the NRC or at least that topic needs discussion in the RIS.

The draft RIS mentions the NRC master materials licenses issued to the Air Force and the Navy. It would be helpful if the RIS might discuss what types of authorizations the radiation safety organizations of the Air Force (the RIC) and the Navy (RASO) can grant under their respective master materials licenses that relate to sites with Ra-226.

For example, do the NRC master materials licenses allow the Air Force's RIC or the Navy's RASO to grant authorization for burial of radioactive waste? If so, what are the limitations on such authorizations that may be granted under master materials licenses?

A more specific example might be helpful to illustrate the situation: At Hunters Point Shipyard in California, the Navy recently added a soil cap on top of landfills or disposal pits at Sites 7 and 18. These sites have been confirmed to contain soil contaminated with Ra-226 and discrete sources containing Ra-226. The conceptual model for the site acknowledges this fact. The sites were under review via the CERCLA process and it is clear that they did not qualify for unrestricted release nor does it appear that the Navy requested unrestricted release for these sites.

Given that situation, was the Navy action of adding a soil cap on top of disposal pits or landfills containing Ra-226 waste an activity that would require approval via a permit issued by RASO under the Navy master materials license? If so, was such a permit requested and issued by the Navy entity performing the capping work?

If the capping activity is outside the scope of approval by RASO under the NRC master materials license, it seems that an amendment to that master materials license issued by the NRC would be necessary for capping a disposal site. Would the NRC consider issuing such an amendment or would they view capping an existing landfill as shallow land burial prohibited by regulation unless the site meets the requirements of a low level radioactive waste facility?

Was the NRC asked to issue such an amendment in this case? Was the engineered cap or soil cover added in apparent violation of the NRC master materials license issued to the Navy or in violation of Navy procedures and policies tied to that license by license condition or by specific license conditions?

Analyzing this one example in the RIS might be useful in understanding how the NRC role and jurisdiction applies when a landfill or disposal pit is to be capped or covered and is known to contain Ra-226 waste materials. Since it is common practice for the CERCLA process to allow capping in place of contaminated soil and disposal pits containing elevated levels of chemicals, provided that there is not a pathway to the environment or direct exposure to people, it is likely that the CERCLA process would allow capping of these sites, which might be violation of NRC requirements.

Also, at least in California, there is a Governor's Executive Order in effect which prohibits burial of radioactive waste or decommissioning waste at Class 3 landfills or unclassified landfills. The CERCLA process has apparently ignored this prohibition or taken the viewpoint that it will not come into effect until the site is actually transferred to State

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jurisdiction. Sites 7 and 18 at HPS do appear to be the equivalent of a Class 3 or unclassified landfill. How will the NRC deal with state regulations or executive orders that may be more restrictive than NRC requirements?

At another site in California, the Air Force plans to construct a waste consolidation unit at Site CS-10 and place radioactive waste from McClellan AFB containing Ra-226 into the unit. Is that an activity that would require an amendment to their NRC master materials license or may a new waste consolidation unit be approved by the Air Force RIC under their existing authorizations? This might be another good example to discuss in the RIS.

Again, thank you for the opportunity to provide comments as the NRC works to clarify issues related to Ra-226 at military sites.

Sincerely,

Jared Washburn
San Francisco, CA