



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

March 7, 2022

ALL AGREEMENT STATES AND NON-AGREEMENT STATES

U.S. NUCLEAR REGULATORY COMMISSION MEMORANDUM OF UNDERSTANDING WITH
THE U.S. DEPARTMENT OF DEFENSE REGARDING REMEDIATION OF UNLICENSED
RADIOACTIVE MATERIAL (STC-22-011)

Purpose: To provide information about the U.S. Nuclear Regulatory Commission's (NRC's) memorandum of understanding (MOU) with the U.S. Department of Defense (DoD) regarding DoD's Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Defense Environmental Restoration Program (DERP) remediation of radium and other unlicensed Atomic Energy Act of 1954, as amended (AEA) material and to provide the changes since the 2021 annual update to the current inventory of the sites provided by the DoD.

Background: In SECY-14-0082, "Jurisdiction for Military Radium and the U.S. Nuclear Regulatory Commission Oversight of U.S. Department of Defense Remediation of Radioactive Material," NRC staff recommended that the Commission approve an MOU with the DoD regarding the DoD's remediation of confirmed radiological contamination at unlicensed sites under the CERCLA process. The MOU avoids dual regulation while ensuring protection of public health, safety, and the environment.

The Commission directed the NRC staff to pursue an MOU with the DoD and to issue a Regulatory Issue Summary (RIS) that clarifies NRC's jurisdiction of radium-226 in the military's possession (SRM-SECY-14-0082). On April 28, 2016, NRC staff finalized the MOU with the DoD (Agencywide Documents Access and Management System [ADAMS] Accession No. [ML16092A294](#)). The NRC issued RIS 2016-06, "NRC Regulation of Radium-226 Under Military Control and for Coordination on CERCLA Response Actions at DoD Sites with Radioactive Materials" on May 9, 2016 (ADAMS Accession No. [ML15167A324](#)).

Discussion: The MOU has two types of NRC involvement in the DoD's cleanup activities: the "stay informed" approach and a "monitoring" approach. Consistent with SECY-14-0082, the NRC staff uses a "stay informed" approach that relies on the CERCLA process and U.S. Environmental Protection Agency (EPA) regulatory oversight for sites where the EPA has regulatory authority. The NRC has successfully used this approach for the past 14 years at the Navy's Alameda Naval Air Station and Hunters Point Naval Shipyard, the Air Force's McClellan Air Force Base, as well as others. The NRC staff stays informed about remedial actions at these sites through a combination of selected document reviews and periodic site visits that involve meetings with representatives of the DoD, EPA Regions, and the State agencies involved with the remediation of these sites. Through these interactions, the NRC staff maintains awareness of the progress and views on important radiological remediation issues as well as completed and planned activities of each organization. This approach does not involve licensing, and the staff does not conduct licensing reviews. The NRC may provide comments to EPA on the remediation activities should concerns arise about the DoD's remedy meeting the NRC's dose criteria for release to justify continued reliance on the CERCLA process and EPA oversight.

The second approach, monitoring, applies to sites where there is limited Federal oversight conducted by EPA (e.g., sites not listed on the National Priorities List). The NRC will prioritize these sites and conduct the appropriate type and amount of monitoring activities for each site based on its priority. Monitoring activities include document and data reviews, site observations (similar to inspections), and confirmatory radiological surveys. Monitoring will provide consistent Federal oversight to confirm DoD's remediation of radioactive contamination using the CERCLA/DERP process and will ensure that the outcome protects public health and safety. To that end, under the monitoring approach, the NRC will confirm that DoD's remedy at sites meets the 25-millirem-per-year (0.25-millisievert-per-year) dose criterion in Title 10 of the *Code of Federal Regulations* (10 CFR) Section 20.1402 for sites that will be released for unrestricted use or is consistent with the requirements in 10 CFR Section 20.1403(b) for sites that will be released for restricted use. In addition, for sites subject to five-year reviews required by CERCLA, NRC will review the status of the radiological remedy during the five-year review to ensure that the radiological remedy remains protective.

It is important to note that the scope of the MOU primarily covers radioactive material in DoD possession where there is an overlap between CERCLA/DERP and AEA authorities, and not older material (e.g., gauges) that may have originated from the DoD but are no longer in DoD possession.

To support NRC planning, DoD has provided the NRC staff with the most recent updated inventory of sites covered by the MOU. A listing of the sites which was revised from last year's listing is enclosed with this letter. The enclosed list of sites provides the site name, city, state, and NRC's involvement. Depending on the level of activity at each site, the NRC may contact individual Agreement States with sites to begin the coordination process in anticipation of future NRC activities under the MOU, particularly regarding jurisdiction of service provider oversight. NRC staff also publishes a summary of its activities conducted annually under the MOU in its "Status of the Decommissioning Program" reports available online at <https://www.nrc.gov/waste/decommissioning/program-docs.html>.

If you have any questions regarding the correspondence, please contact me at (301) 415-3340 or the individual named below:

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Signed by Williams, Kevin
on 03/07/22

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Enclosure: As Stated

STC-22-011 - U.S. Nuclear Regulatory Commission Memorandum of Understanding with the U.S.
Department of Defense Regarding Remediation of Unlicensed Radioactive Material DATE March 7, 2022

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* via email

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